



BOARD OF COUNTY COMMISSIONERS
ZONING HEARINGS
COUNTY COMMISSIONERS CHAMBERS OF THE STEPHEN P. CLARK
CENTER - 2ND FLOOR
111 NW 1 Street, Miami
Thursday, March 20, 2008 at 9:30 a.m.

APPEALS

DISTRICT

1.	07-12-CZ12-2	ROGER & DOROTHY WOLIN	07-172	31-54-41	N	7
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CURRENT

DISTRICT

2.	08-3-CC-1	R & E AT PALM VISTA II, INC.	07-263	23-56-39	N	8
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Official Zoning Agenda

BOARD OF COUNTY COMMISSIONERS

COUNTY COMMISSION MEETING OF THURSDAY, MARCH 20, 2008

NOTICE: THE FOLLOWING HEARING IS SCHEDULED FOR 9:30 A.M., AND

ALL PARTIES SHOULD BE PRESENT AT THAT TIME

ANY PERSON MAKING IMPERTINENT OR SLANDEROUS REMARKS OR WHO BECOMES BOISTEROUS WHILE ADDRESSING THE COMMISSION SHALL BE BARRED FROM FURTHER AUDIENCE BEFORE THE COMMISSION BY THE PRESIDING OFFICER, UNLESS PERMISSION TO CONTINUE OR AGAIN ADDRESS THE COMMISSION BE GRANTED BY THE MAJORITY VOTE OF THE COMMISSION MEMBERS PRESENT.

NO CLAPPING, APPLAUDING, HECKLING OR VERBAL OUTBURSTS IN SUPPORT OR OPPOSITION TO A SPEAKER OR HIS OR HER REMARKS SHALL BE PERMITTED. NO SIGNS OR PLACARDS SHALL BE ALLOWED IN THE COMMISSION CHAMBER. PERSONS EXITING THE COMMISSION CHAMBER SHALL DO SO QUIETLY.

THE USE OF CELL PHONES IN THE COMMISSION CHAMBERS IS NOT PERMITTED. RINGERS MUST BE SET TO SILENT MODE TO AVOID DISRUPTION OF PROCEEDINGS. INDIVIDUALS, INCLUDING THOSE ON THE DAIS, MUST EXIT THE CHAMBERS TO ANSWER INCOMING CELL PHONE CALLS. COUNTY EMPLOYEES MAY NOT USE CELL PHONE CAMERAS OR TAKE DIGITAL PICTURES FROM THEIR POSITIONS ON THE DAIS.

THE NUMBER OF FILED PROTESTS AND WAIVERS ON EACH APPLICATION WILL BE READ INTO THE RECORD AT THE TIME OF HEARING AS EACH APPLICATION IS READ.

THOSE ITEMS NOT HEARD PRIOR TO THE ENDING TIME FOR THIS MEETING, WILL BE DEFERRED TO THE NEXT AVAILABLE ZONING HEARING MEETING DATE FOR THIS BOARD.

SWEARING IN OF WITNESSES

1. **ROGER AND DOROTHY WOLIN (07-12-CZ12-2/07-172)**

**31-54-41
BCC/District 7**

ROGER AND DOROTHY WOLIN are appealing the decision of Community Zoning Appeals Board #12, which denied without prejudice the following:

- (1) EU-1 to EU-S

OR IN THE ALTERNATIVE:

- (2) Applicants are requesting to permit two lots with lot areas of 0.617 gross acre each (1 gross acre required).

AND WITH EITHER REQUEST #1 OR #2, THE FOLLOWING:

- (3) Applicants are requesting to permit two lots with a frontage of 100' each (125' required).
(4) Applicants are requesting to permit on Parcel 1 a utility shed accessory building setback 7.72' (20' required) from the interior side (south) property line.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 - #4 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A boundary survey is on file and may be examined in the Zoning Department, as prepared by Schwebke, Shiskin & Associates, Inc. and dated stamped received 8/31/07.

LOCATION: 7677 Ponce de Leon Road, Miami-Dade County, Florida.

SIZE OF PROPERTY: 1.24 Gross Acres

Department of Planning and
Zoning Recommendation:

Denial without prejudice of the appeal and
the application.

Protests: 10

Waivers: 9

DENIAL OF APPEAL (SUSTAIN C.Z.A.B.): _____

APPROVAL OF APPEAL (OVERRIDE C.Z.A.B.): _____

DEFERRED: _____

2. R & E AT PALM VISTA II, INC. (08-1-3-CC-1/07-263)

23-56-39
BCC/District 8

DELETION of a Declaration of Restrictions recorded in Official Record Book 21680, Pages 2736-2740.

The purpose of the request is to allow the applicant to delete a Declaration of Restrictions tying the development of the property to a site plan and a specific number of dwelling units in order to allow the applicant to build in accordance with Princeton Community Urban Center (PCUC) District zoning regulations.

Upon a demonstration that the applicable standards have been satisfied, approval of the request may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing).

LOCATION: The northeast corner of S.W. 129 Avenue and S.W. 248 Street, and lying east of S.W. 129 Avenue, on both sides of S.W. 246 Terrace, Miami-Dade County, Florida.

SIZE OF PROPERTY: 4.7 Acres

Department of Planning and
Zoning Recommendation:

Approval under Section 33-311(A)(7) (generalized modification standards), and denial without prejudice under Section 33-311(A)(17) (ASDO for modification or elimination of conditions and covenants after public hearing).

Protests: 283

Waivers: 0

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

THE END

NOTICE OF APPEAL RIGHTS

Decisions of the Community Zoning Appeals Board (CZAB) are appealed either to Circuit Court or to the Board of County Commissioners (BCC) depending upon the items requested in the Zoning Application. Appeals to Circuit Court must be filed within 30 days of the transmittal of the CZAB resolution. Appeals to BCC must be filed with the Zoning Hearings Section of the Department of Planning and Zoning within 14 days of the posting of the results in the department.

Further information and assistance may be obtained by contacting the Legal Counsel's office for the Department of Planning and Zoning at (305) 375-3075, or the Zoning Hearings Section at (305) 375-2640. For filing or status of Appeals to Circuit Court, you may call the Clerk of the Circuit Court at (305) 349-7409.

1. ROGER & DOROTHY WOLIN
(Applicant)

07-12-CZ12-2 (07-172)
BCC/District 7
Hearing Date: 3/20/08

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☐/lease ☐ the property predicated on the approval of the zoning request? Yes ☐ No ☒

Disclosure of interest form attached? Yes ☐ No ☒

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
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NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANTS: Roger and Dorothy Wolin

PH: Z07-172 (07-12-CZ12-2)

SECTION: 31-54-41

DATE: March 20, 2008

COMMISSION DISTRICT: 7

ITEM NO.: 1

A. INTRODUCTION

o REQUESTS:

ROGER AND DOROTHY WOLIN are appealing the decision of Community Zoning Appeals Board #12, which denied without prejudice the following:

- (1) EU-1 to EU-S

OR IN THE ALTERNATIVE:

- (2) Applicants are requesting to permit two lots with lot areas of 0.617 gross acre each (1 gross acre required).

AND WITH EITHER REQUEST #1 OR #2, THE FOLLOWING:

- (3) Applicants are requesting to permit two lots with frontages of 100' each (125' required).
- (4) Applicants are requesting to permit on Parcel 1 a utility shed accessory building setback 7.72' (20' required) from the interior side (south) property line.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 - #4 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A boundary survey is on file and may be examined in the Department of Planning and Zoning, as prepared by Schwebke, Shiskin & Associates, Inc. and dated stamped received 8/31/07. Plans may be modified at public hearing.

o SUMMARY OF REQUESTS:

The applicants are appealing the decision of Community Zoning Appeals Board #12 (CZAB-12) which denied without prejudice a request to change the zoning on the property from EU-1, Single-Family One Acre Estate Residential District, to EU-S, Estate Use Suburban Residential District, or in the alternative, to permit lots with areas of 0.617 gross acre each to allow the resubdivision of the subject EU-1 zoned parcel into two lots with less lot area than required by the zoning regulations. Additionally, with either of the aforementioned requests, the applicants

seek to permit said two lots with reduced lot frontages with either alternative (the zone change or the reduced lot areas) and to permit a utility shed accessory building on Parcel 1 to setback less than required from the interior side (south) property line.

o **LOCATION:**

7677 Ponce de Leon Road, Miami-Dade County, Florida.

o **SIZE:** 1.24 gross acres

o **IMPACT:**

The approval of the requested district boundary change or the alternative request for lots with less lot area and the request for less lot frontage than required by the zoning district regulations will provide 1 additional housing unit for the community that will have a minimal impact on public services. The reduced utility shed setback could have a negative visual impact on the area.

B. ZONING HEARINGS HISTORY: None

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Estate Density Residential** use. This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 dwelling units per gross acre.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

EU-1; single-family residence

Estate Density Residential, 1 to 2.5 dua

Surrounding Properties:

NORTH: EU-1; single-family residences

Estate Density Residential, 1 to 2.5 dua

SOUTH: EU-1; single-family residences

Estate Density Residential, 1 to 2.5 dua

EAST: EU-1; single-family residence Estate Density Residential, 1 to 2.5 dua

WEST: EU-M; single-family residences Estate Density Residential, 1 to 2.5 dua

The subject property is located at 7677 Ponce de Leon Road. The area surrounding the subject property is predominately developed with single-family homes.

E. SITE AND BUILDINGS:

Site Plan Review:	(site plan submitted)
Scale/Utilization of Site:	Unacceptable
Location of Buildings:	Unacceptable
Compatibility:	Unacceptable
Landscape Treatment:	N/A
Open Space:	N/A
Buffering:	Unacceptable
Access:	Acceptable
Parking Layout/Circulation:	N/A
Visibility/Visual Screening:	N/A
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

In evaluating an application for a **district boundary change**, Section 33-311 provides that the Board shall take into consideration, among other factors the extent to which:

- (1) Conform to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;
- (2) Will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;
- (3) Will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;

- (4) Will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;
- (5) Will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

Section 33-311(A)(14) Alternative Site Development Option for Single Family and Duplex Dwellings

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts:

(c) Setbacks for a single family or duplex dwelling shall be approved after public hearing upon demonstration of the following:

- 1. the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining residential property; and
- 2. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and
- 3. the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development to less than 40% of the total net lot area; and
- 4. any area of shadow cast by the proposed alternative development upon an adjoining parcel of land during daylight hours will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a *de minimus* impact on the use and enjoyment of the adjoining parcel of land; and
- 5. the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofing structure; and
- 6. the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
- 7. the architectural design, scale, mass, and building materials of any proposed structure or addition are aesthetically harmonious with that of other existing or

proposed structures or buildings on the parcel proposed for alternative development; and

8. the wall of any building within a setback area required by the underlying district regulations shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
9. the proposed development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot; and
10. any windows or doors in any building to be located within an interior setback required by the underlying district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; and
11. total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the underlying regulations; and
12. the area within an interior side setback required by the underlying district regulations located behind the front building line will not be used for off-street parking except:
 - a. in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; or
 - b. if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
 - i. articulation to avoid the appearance of a "blank wall" when viewed from the adjoining property, or
 - ii. landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and
13. any structure within an interior side setback required by the underlying district regulations;

- a. is screened from adjoining property by landscape material of sufficient size and composition to obscure at least sixty percent (60%) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure at time of planting; or
 - b. is screened from adjoining property by an opaque fence or wall at least six(6) feet in height that meets the standards set forth in paragraph (f) herein; and
- 14. any proposed alternative development not attached to a principal building, except canopy carports, is located behind the front building line; and
 - 15. any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least three (3) feet; and
 - 16. when a principal building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and
 - 17. the eighteen (18) inch distance between any swimming pool and any wall or enclosure required by this code is maintained; and
 - 18. safe sight distance triangles shall be maintained as required by this code; and
 - 19. the parcel proposed for alternative development will continue to provide on-site parking as required by this code; and
 - 20. the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002), regulating lot area, frontage and depth.
 - 21. the proposed development will meet the following:
 - A. interior side setbacks will be at least three (3) feet or fifty percent (50%) of the side setbacks required by the underlying district regulations, whichever is greater.
 - B. Side street setbacks shall not be reduced by more than fifty percent (50%) of the underlying zoning district regulations;
 - C. Interior side setbacks for active recreational uses shall be no less than seven (7) feet in EU, AU, or GU zoning district or three (3) feet in all other zoning districts to which this subsection applies;

- D. Front setbacks will be at least twelve and one-half (12 ½) feet or fifty percent (50%) of the front setbacks required by the underlying district regulations, whichever is greater;
 - E. Rear setbacks will be at least three (3) feet for detached accessory structures and ten (10) feet for principal structures.
- (d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:
1. the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:
 - A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and
 - B. the proposed alternative development will not result in the further subdivision of land; and
 - C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
 2. the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:
 - A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and

- B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and
 - C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
3. the proposed lot area, frontage or depth is such that:
- A. the proposed alternative development will not result in the creation of more than three (3) lots; and
 - B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - C. no lot area shall be less than the smaller of:
 - i. ninety percent (90%) of the lot area required by the underlying district regulations; or
 - ii. the average area of the developed lots in the immediate vicinity within the same zoning district; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
4. If the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:

- A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and
 - B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area; [and]
 - C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with [in] the agricultural designation; and
 - E. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
- (g) Notwithstanding the foregoing, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- 1. will result in a significant diminution of the value of property in the immediate vicinity; or
 - 2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
 - 3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or
 - 4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations imposed by section 33B-45 of this code.
- (h) Proposed alternative development under this subsection shall provide additional amenities or buffering to mitigate the impacts of the development as approved, where the amenities or buffering expressly required by this subsection are insufficient to mitigate the impacts of the development. The purpose of the amenities or buffering elements shall be to preserve and protect the quality of life of the residents of the approved development and the immediate vicinity in a manner comparable to that ensured by the underlying district regulations. Examples of such amenities include but are not limited to: active or passive recreational facilities, common open space, additional trees or landscaping, convenient covered bus stops or pick-up areas for transportation services,

sidewalks (including improvements, linkages, or additional width), bicycle paths, buffer areas or berms, street furniture, undergrounding of utility lines, and decorative street lighting. In determining which amenities or buffering elements are appropriate for a proposed development, the following shall be considered:

- A. the types of needs of the residents of the parcel proposed for development and the immediate vicinity that would likely be occasioned by the development, including but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and
- B. the proportionality between the impacts on residents of the proposed alternative development and the immediate vicinity and the amenities or buffering required. For example, a reduction in lot area for numerous lots may warrant the provision of additional common open space. A reduction in a particular lot's interior side setback may warrant the provision of additional landscaping.

Section 33-311(A)(4)(b) Non-use variances from other than airport regulations.

Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c) Alternative non-use variance standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

G. NEIGHBORHOOD SERVICES:

DERM
Public Works
Parks
MDT

No objection*
No objection*
No objection
No objection

Fire Rescue
Police
Schools

No objection
No objection
No objection

*Subject to the conditions as indicated in their memoranda.

H. **ANALYSIS:**

On December 3, 2007, the Community Zoning Appeals Board – 12 (CZAB-12) denied the zone change (request #1) and companion requests #2, #3 and #4 without prejudice, by a vote of 7 to 0, pursuant to Resolution #CZAB12-31-07. On December 24, 2007, the applicants appealed the CZAB-12's decision to the Board of County Commissioners (BCC) citing that the Board's decision to deny the application is inconsistent with the CDMP and that the applicants met the standard of review in Chapter 33 of the Zoning Code of Miami-Dade County. Staff notes that all existing uses and zoning are consistent with the CDMP. As such, the CZAB-12's decision to deny the zone change and retain the existing EU-1 zoning on the subject property is consistent with the CDMP. The subject property is located at 7677 Ponce de Leon Road and is developed with a single-family residence on the west portion of the site (proposed parcel 2). Said residence has a screen patio addition and a pool that will be removed. Additionally, a guesthouse currently exists on the east portion of the site (proposed parcel 1). The applicants are seeking to rezone the property from EU-1, Single-Family One Acre Estate District, to EU-S, Estate Use Suburban Residential District (request #1). In the alternative to request #1, the applicants are requesting to retain the EU-1 zoning and permit two lots with lot areas of 0.617 gross acre each (1 gross acre required) in order to develop two single-family home sites (request #2). With either request, the applicants are requesting to permit two lots with a frontage of 100' each (125' required) (request #3) and to permit the continued use of an existing utility shed accessory building on Parcel 1 setback 7.72' (20' required) from the interior side (south) property line (request #4). The site plan submitted indicates the development of two lots (Parcel 1 and Parcel 2), each with 26,902 sq. ft. of gross lot area, which complies with the EU-S zoning lot area requirement of 25,000 sq. ft. (0.57 gross acre). However, the existing EU-1 zoning regulations require a minimum lot area of 1 acre gross (43,560 sq. ft.). Most of the parcels immediately surrounding the subject property are zoned EU-1 and are developed with single-family homes.

The Department of Environmental Resources Management (**DERM**) **does not object** to this application and states that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. However, the applicants will have to comply with all DERM conditions as set forth in their memorandum pertaining to this application. Additionally, the **Public Works Department does not object** to this application. The land will require platting in accordance with Chapter 28 of the Miami-Dade County Code and road dedications and improvements will be accomplished through the recording of a plat. According to their memorandum, this application meets traffic concurrency since it lies within the urban infill area where traffic concurrency does not apply. The Miami-Dade Fire Rescue Department (**MDFR**) has **no objections** to this application and their memorandum indicates that the estimated average **travel time** to the subject site is **6:30 minutes**. Miami-Dade County Public Schools (**MDCPS**) **does not object** to this application and

indicates that the proposed zoning will not generate any additional students for the schools in the area.

This application would permit the applicants to provide additional housing for the community. The Land Use Plan (LUP) map of the CDMP designates this site for **Estate Density Residential** use that permits a minimum of 1 to a maximum of 2.5 units per gross acre, and would allow the applicants to develop the site with a minimum of 1 to a maximum of 3 residential units. As such, the development of the subject property with 2 residential lots as proposed by the applicants is **consistent** with the density threshold of the Land Use Plan map of the CDMP. Staff notes that EU-1 zoning mostly surrounds the subject property and opines that introducing an EU-S district amidst the EU-1 zoning primarily surrounding the subject property would be **incompatible** with the established development trend in this area. Further, approving the EU-S zone change would set a precedent in the area for similar zoning and could potentially foster the introduction of more intensive residential zoning districts. Staff acknowledges that to the west of the subject property is a pocket of EU-M, Estate Modified Residential District, and that approximately 318' to the east is a pocket of land zoned RU-1, Single Family Residential District. However, staff notes that the block where the subject site lies as well as the blocks to the north and east are zoned EU-1. Further, staff's review of the quarter section mile where the subject property lies reveals that with the exception of small pockets of EU-M and RU-1 zoned lands, the overall area is predominately zoned EU-1. Therefore, staff opines that the approval of the requested EU-S zone change would be **incompatible** and out of character with the established zoning pattern in the area. Staff acknowledges that a number of the EU-1 parcels surrounding the subject property have less than the 1-acre gross area required by the zoning regulations. Specifically, staff notes that EU-1 zoned lots that abut the subject site to the north consist of a lot areas of 58,571 sq. ft. (1.34 gross acre) and 64,513 sq. ft. (1.48 gross acre), that EU-1 zoned lots that abut the subject site to the south consist of lot areas of 53,774 sq. ft. (1.23 gross acre) and 25,600 sq. ft. (0.58 gross acre), and that the EU-1 zoned lot that abuts the subject site to the east consists of a lot area of 45,631 sq. ft. (1.04 gross acre). Taking into consideration that EU-1 lots are given credit to the centerline of the abutting rights-of-way for their lot areas, most of these lots contain the required full one (1) gross acre of lot area. Staff notes that the proposed 0.62 gross acre lot areas, as illustrated in the submitted plan and in conjunction with the requested reduced lot frontages, are significantly smaller and would be out of character with the surrounding area. It should be noted that in 2005, Community Zoning Appeals Board #12 (CZAB-12) denied without prejudice a similar application for a zone change from EU-1 to EU-S or in the alternative, a request to permit 2 lots each with reduced lot areas and frontages on a 1.438 gross acre parcel of land located immediately to the north of the subject site, pursuant to Resolution #CZAB12-31-05. However, CZAB-12's decision was overturned by the Board of County Commissioners (BCC), which denied the requested zone change from EU-1 to EU-S but approved an alternative request to permit a lot with an area of 0.645 gross acre and a lot with an area of 0.793 gross acre, pursuant to Resolution #Z-22-05. Nevertheless, staff notes that the current requested lot sizes are smaller than those in this prior approval and is of the opinion that the approval of request #2 could initiate a proliferation of similar requests that would result in smaller lots in this area that would change the EU-1 estate density residential character of this community. Accordingly, staff opines that, although the proposed development density is **consistent** with the numerical threshold of the LUP map's Estate Density Residential designation, the

proposed division of the subject property into two lots is **incompatible** with the surrounding area.

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration whether the proposed development will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts, the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment, and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development. The Board shall also consider whether the development will have a favorable or unfavorable impact on the economy of Miami-Dade County, if it will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, public transportation facilities which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways. Staff notes that the proposal will not burden water, sewer, solid waste disposal, recreation, education or public transportation facilities in the area, and will be accessible by an interior road. Further, the rezoning, if granted, conforms to the LUP Map density of the Comprehensive Development Master Plan for Miami-Dade County. Staff further notes that the Public Works Department does not object to this application and the Department of Environmental Resources Management's memorandum indicates that public water can be made available to the property, which will not reduce the Levels of Service (LOS) standards as set forth in the CDMP. As previously mentioned, the applicants' proposal of 2 lots is **consistent** with the numerical threshold of the LUP map's Estate Density Residential designation; however, staff opines that the approval of the proposal would be out of character with the development pattern in the area, could set a precedent in the area for similar zoning and could potentially foster the introduction of more intensive residential zoning districts. As such, staff opines that the request to rezone the subject property to EU-S is **incompatible** with the surrounding area. Therefore, staff recommends denial without prejudice of the requested zone change to EU-S (request #1).

The Alternative Site Development Option (ASDO) standards under Section 33-311(A)(14) provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable Alternative Site Development Option Standards as established. However, the applicants have not provided staff with the documentation necessary to analyze requests #2 through #4 under the ASDO Standards. As such, these requests cannot be approved under same and should be denied without prejudice under Section 33-311(A)(14) (ASDO).

When requests #2 through #4 are analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff is of the opinion that said requests do not maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, would be **incompatible** with the surrounding area and would be detrimental to same. The alternative request #2, which seeks to re-subdivide the property into two EU-1 zoned lots with less lot area than required by the zoning regulations and request #3, to permit two lots with frontages of 100' each (125' required), would be incompatible with the area because approval of these requests could initiate a proliferation of similar requests for smaller lots and reduced frontages in this area. Staff further notes that the request for reduced lot

frontage applies to either the zone change to EU-S or the alternative request for reduced lot areas in the current EU-1 zone. As previously mentioned, the BCC denied a request for a zone change from EU-1 to EU-S but approved an alternative request to retain the existing zoning and permit a lot with an area of 0.645 gross acre and a lot with an area of 0.793 gross acre, pursuant to Resolution #Z-22-05 on a 1.438 gross acre parcel of land to the north of the subject site. Staff notes that the property that is the subject of this application consists of 1.24 gross acres and that the submitted plan depicts 2 parcels that consist of 0.62 gross acres each which, as previously mentioned, is smaller in terms of lot area than those previously approved by this Board on the property to the north. Request #4, to permit a utility shed accessory building on Parcel 1 setback 7.72' (20' required) from the interior side (south) property line, in staff's opinion, is excessive and intrusive. Specifically, this setback request is too close to the neighbor's property to the south and would detrimentally impact said property. Staff opines that the approval of these requests could disrupt the overall welfare of the neighborhood, and could generate similar requests that would further affect the integrity of this residential neighborhood. Accordingly, staff recommends denial without prejudice of requests #2 through #4 of this application under Section 33-311(A)(4)(b) (Non-Use Variance).

When requests #2 through #4 are analyzed under Section 33-311(A)(4)(c), the Alternative Non-Use Variance (ANUV) Standards, the applicants have not proven that a literal enforcement of the provisions thereof will result in unnecessary hardship and that the property cannot be utilized in accordance with the zoning regulations unless the requests are approved. Said requests cannot be approved under said standard since the property can be utilized in accordance with zoning regulations. As such, staff recommends denial without prejudice of these requests under Section 33-311(A)(4)(c) (ANUV).

Based on all of the aforementioned, staff opines that, although the density proposed by this application is **consistent** with the interpretative text of the CDMP, approval of same would be **incompatible** with the area and could generate similar requests that would further affect the integrity of this residential neighborhood. Noting all the above and the fact that the CDMP indicates that all existing zoning is consistent with the CDMP, staff recommends denial without prejudice of the appeal and of this application.

I. RECOMMENDATION:

Denial without prejudice of the appeal and the application.

J. CONDITIONS: None

DATE INSPECTED: 09/24/07
DATE TYPED: 10/02/07
DATE REVISED: 10/19/07; 10/24/07; 10/31/07; 01/29/08; 01/31/08; 02/11/08

Roger and Dorothy Wolin
Z07-172
Page 15

DATE FINALIZED: 02/20/08
SB:MTF:LVT:JV:NC

A handwritten signature in black ink, appearing to read 'Subrata Basu', written over a horizontal line.

Subrata Basu, Interim Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: July 2, 2007

To: Subrata Basu, AIA, AICP, Interim Director
Department of Planning and Zoning

From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

Subject: C-12 #Z20070 00172
Roger Wolin and Dorothy G. Wolin
7677 Ponce de Leon Road
District Boundary Change from EU-1 to EU-S
(EU-1) (1 Acres)
31-54-41

A handwritten signature in black ink, appearing to read "Jose Gonzalez", written over the printed name in the "From:" field.

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Service

Public water can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system shall be required, in accordance with Code requirements.

Existing public water facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards, subject to compliance with the conditions required by DERM for this proposed development order.

Wastewater Disposal

Public sanitary sewers are not located within feasible distance for connection to the subject property; consequently, any proposed development would have to be served by a septic tank and drainfield, as a means for the disposal of domestic liquid waste. DERM has no objection to the interim use of a septic tank and drainfield, provided that the maximum sewage loading allowed by Section 24-43.1(3) of the Code is not exceeded. Based on available information, the proposed single-family residence or duplex served by a septic tank would not exceed the maximum allowable sewage loading for the subject property.

Stormwater Management

All stormwater shall be retained on-site utilizing properly designed seepage or infiltration drainage structures. Drainage plans shall provide for full on-site retention of the stormwater runoff of a 5-year/1-day storm event.

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMP, subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands

The subject property does not contain jurisdictional wetlands, as defined in Section 24-5 of the Code; therefore, a Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600), and the South Florida Water Management District (1-800-432-2045), may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation

The subject property may contain specimen-sized (trunk diameter 18 inches or greater) trees. Section 24-49.2(II) of the Code requires that specimen trees be preserved whenever reasonably possible. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any tree that is subject to the Tree Preservation and Protection provisions of the Code. Said Tree Removal Permit shall meet the requirements of Sections 24-49.2 and 24-49.4 of the Code.

The applicant is required to comply with the above tree permitting requirements. DERM's approval of the subject application is contingent upon inclusion of said tree permitting requirements in the resolution approving this application. The applicant is advised to contact DERM staff for additional information regarding tree permitting procedures and requirements prior to site development.

Enforcement History

DERM has found no open or closed enforcement record for the subject property.

Concurrency Review Summary

DERM has conducted a concurrency review for this application and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency, subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

This memorandum shall constitute DERM's written approval, as required by the Code.

If you have any questions concerning the comments, or wish to discuss this matter further, please contact Enrique A. Cuellar at (305) 372-6764.

cc: Lynne Talleda, Zoning Evaluation - P&Z
Ron Connally, Zoning Hearings - P&Z
Franklin Gutierrez, Zoning Agenda Coordinator - P&Z

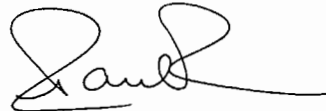
PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: ROGER & DOROTHY WOLIN

This Department has no objections to this application.

This land requires platting in accordance with Chapter 28 of the Miami-Dade County Code. The road dedications and improvements will be accomplished thru the recording of a plat.

This project meets traffic concurrency because it lies within the urban infill area where traffic concurrency does not apply.

A handwritten signature in black ink, appearing to read "Raul", with a long horizontal flourish extending to the right.

Raul A Pino, P.L.S.

12-JUN-07

PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY GAT

AMOUNT OF FEE 4582.09

07-172

RECEIPT # 1200724483

DATE HEARD: 12 103 107

BY CZAB # 123107

RECEIVED
DEC 24 2007

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY [Signature]
DATE RECEIVED STAMP

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. 07-12-CZ12-2 (07-172)

Filed in the name of (Applicant) Roger & Dorothy Wolin

Name of Appellant, if other than applicant _____

Address/Location of APPELLANT'S property:

7677 Ponce de Leon Road, Miami-Dade County, Florida

Application, or part of Application being Appealed (Explanation): Entire application

Appellant (name): Roger and Dorothy Wolin

hereby appeals the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby makes application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows:
(State in brief and concise language)

1. The CZAB12 decision is inconsistent with the Comprehensive Development Master Plan (CDMP).

2. The Applicant met the standard of review in Chapter 33 (Zoning) of the Code of Miami-Dade County.

APPELLANT MUST SIGN THIS PAGE

Date: 17th day of December, year: 2007

Signed Dorothy Wolin

DOROTHY WOLIN

Print Name

7677 PONCE DE LEON ROAD

Mailing Address

305-665-7677

Phone

Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an association or other entity, so indicate:

Representing

Signature

Print Name

Address

City

State

Zip

Telephone Number

Subscribed and Sworn to before me on the 17th day of December, year 2007

Michael Pelaez
Notary Public

(stamp/seal)

Commission expires: Feb 11, 2011

RECEIVED
207-172
DEC 24 2007

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY W

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

APPELLANT MUST SIGN THIS PAGE

Date: 17th day of December, year: 2007

Signed

S. ROGER WOLIN

Print Name

7677 PONCE DE LEON ROAD

Mailing Address

305-665-7677

Phone

Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an association or other entity, so indicate:

Representing

Signature

Print Name

Address

City

State

Zip

Telephone Number

Subscribed and Sworn to before me on the 17th day of December, year 2007

Notary Public

(stamp/seal)

Commission expires: Feb 11, 2011

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DEC 24 2007

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MIAMI-DADE PLANNING AND ZONING DEPT.

BY

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

APPELLANT'S AFFIDAVIT OF STANDING

(must be signed by each Appellant)

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

Before me the undersigned authority, personally appeared S. Roger Wolin
(Appellant) who was sworn and says that the Appellant has standing to file the attached appeal
of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community
Zoning Appeals Board matter because of the following:

(Check all that apply)

- ☒ 1. Participation at the hearing
☒ 2. Original Applicant
☐ 3. Written objections, waivers or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury,
and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Bellup Ferrer
Signature

Bellup's FERRER
Print Name

Mario Wong
Signature

MARIO WONG
Print Name

S. Roger Wolin
Appellant's signature

S. ROGER WOLIN
Print Name

Sworn to and subscribed before me on the 17th day of December, year 2007.
Appellant is personally known to me or has produced _____ as
identification.

Michael Pelaez
Notary

(Stamp/Seal)

Commission Expires: Feb 11, 2011

RECEIVED
207-172
DEC 24 2007

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY W

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

APPELLANT'S AFFIDAVIT OF STANDING
(must be signed by each Appellant)

STATE OF Florida

COUNTY OF Miami-Dade

Before me the undersigned authority, personally appeared Dorothy Wolin
(Appellant) who was sworn and says that the Appellant has standing to file the attached appeal
of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community
Zoning Appeals Board matter because of the following:

(Check all that apply)

- ☐ 1. Participation at the hearing
☒ 2. Original Applicant
☐ 3. Written objections, waivers or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury,
and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Bethys Ferrer
Signature

BETHYS FERRER
Print Name

Mario Wong
Signature

MARIO WONG
Print Name

Dorothy Wolin
Appellant's signature

DOROTHY WOLIN
Print Name

Sworn to and subscribed before me on the 17th day of December, year 2007.
Appellant is personally known to me or has produced _____ as
identification.

Michael Pelaez
Notary
(Stamp/Seal)
Commission Expires: Feb 11, 2011

RECEIVED
207-172
DEC 24 2007

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY W

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
FED THRU ATLANTIC BONDING CO., INC.

APPELLANT MUST SIGN THIS PAGE

Date: 20 day of December, year: 2007

Signed _____

Print Name

Mailing Address

Phone

Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an association or other entity, so indicate:

Roger Wolin and Dorothy Wolin

Representing



Signature

Jerry B. Proctor

Print Name

7677 Ponce de Leon Road

Address

Miami

City

Florida

State

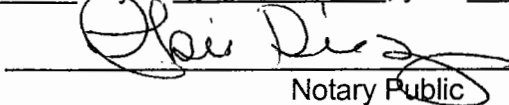
33143

Zip

305-667-7738

Telephone Number

Subscribed and Sworn to before me on the 20 day of December, year 2007.



Notary Public

(stamp/seal)

RECEIVED
207-172
DEC 24 2007

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY 



RESOLUTION NO. CZAB12-31-07

WHEREAS, **ROGER AND DOROTHY WOLIN** applied for the following:

- (1) EU-1 to EU-S

OR IN THE ALTERNATIVE:

- (2) To permit two lots with lot areas of 0.617 gross acre each (1 gross acre required).

AND WITH EITHER REQUEST #1 OR #2, THE FOLLOWING:

- (3) To permit two lots with a frontage of 100' each (125' required).
- (4) To permit a utility shed accessory building on Parcel 1 setback 7.72' (20' required) from the interior side (south) property line.

Upon demonstration that the applicable standards have been satisfied, approval of requests #2 - #4 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A boundary survey is on file and may be examined in the Zoning Department, as prepared by Schwebke, Shiskin & Associates, Inc. and dated stamped received 8/31/07.

SUBJECT PROPERTY: Lot 3, Block 3, AMENDED PLAT OF GRANADA PARK, Plat book 40, Page 21.

LOCATION: 7677 Ponce de Leon Road, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 12 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary change to EU-S (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requests to permit two lots with lot areas of 0.617 gross acre each (Item #2), to permit two lots with a frontage of 100' each (Item #3), and to permit a utility shed accessory building on Parcel 1 setback 7.72' from the

interior side (south) property line (Item #4) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and

WHEREAS, a motion to deny the entire application without prejudice was offered by Peggy Brodeur, seconded by Edward D. Levinson, and upon a poll of the members present the vote was as follows:

Peggy Brodeur	aye	Jose I. Valdes	aye
Edward D. Levinson	aye	Robert W. Wilcosky	aye
Alberto Santana	aye	Elliot N. Zack	aye
		Carla Ascencio-Savola	aye

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 12, that the requested district boundary change to EU-S (Item #1), be and the same is hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requests to permit two lots with lot areas of 0.617 gross acre each (Item #2), to permit two lots with a frontage of 100' each (Item #3), and to permit a utility shed accessory building on Parcel 1 setback 7.72' from the interior side (south) property line (Item #4) be and the same are hereby denied without prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 3rd day of December, 2007.

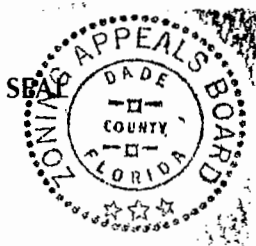
Hearing No. 07-12-CZ12-2
Is


STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Luis Salvat, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 12, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB12-31-07 adopted by said Community Zoning Appeals Board at its meeting held on the 3rd day of December 2007.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 11th day of December 2007.





Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning

Memorandum

Date: 12-SEP-07

To: Subrata Basu, Interim Director
Department of Planning and Zoning

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department

Subject: Z2007000172

Fire Prevention Unit:

This Memo supersedes MDFR Memorandum dated May 23, 2007.

APPROVAL

Fire Engineering and Water Supply Bureau has no objection to Survey date stamped August 31, 2007. Any changes to the vehicular circulation must be resubmitted for review and approval.

This plan has been reviewed to assure compliance with the MDFR Access Road Requirements for zoning hearing applications. Please be advised that during the platting and permitting stages of this project, the proffered site plan must adhere to corresponding MDFR requirements.

Service Impact/Demand:

Development for the above Z2007000172
located at 7677 PONCE DE LEON RD, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 1762 is proposed as the following:

2	dwelling units	N/A	square feet
residential		industrial	
N/A	square feet	N/A	square feet
Office		institutional	
N/A	square feet	N/A	square feet
Retail		nursing home/hospitals	

Based on this development information, estimated service impact is: 0.56 alarms-annually.
The estimated average travel time is: 6:30 minutes

Existing services:

The Fire station responding to an alarm in the proposed development will be:

Station 14 - South Miami - 5860 SW 70 Street.

Rescue, BLS Engine, Battalion.

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:

None.

Fire Planning Additional Comments:

Current service impact calculated based on letter of intent date stamped August 31, 2007. Substantial changes to the letter of intent will require additional service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

ROGER & DOROTHY WOLIN

7677 PONCE DE LEON RD, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2007000172

HEARING NUMBER

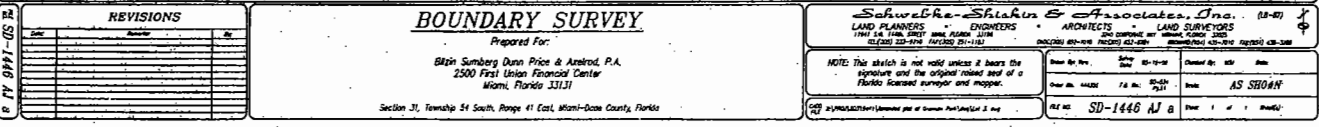
CURRENT ENFORCEMENT HISTORY:

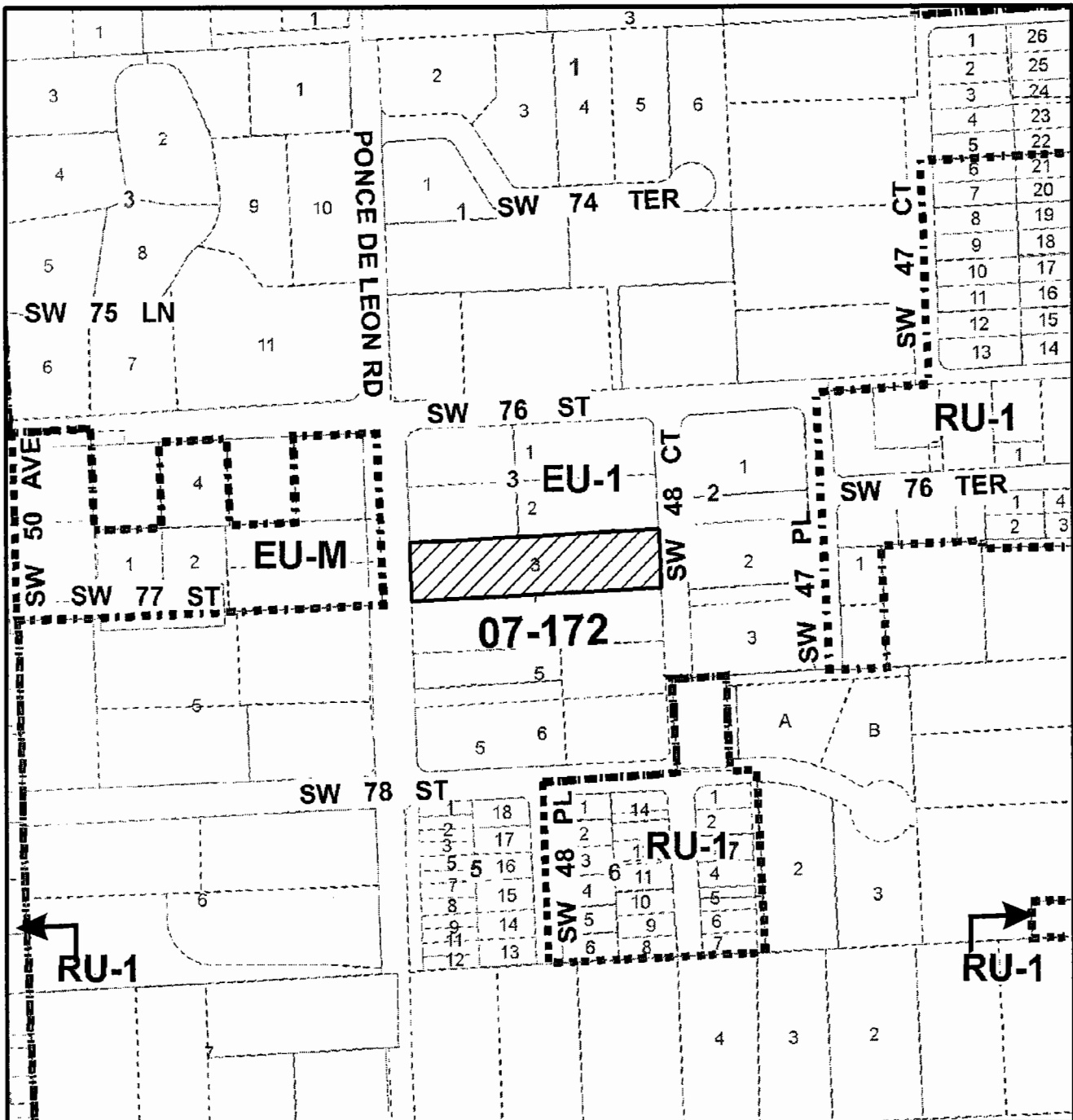
There is no current or previous enforcement history on 7677 Ponce de Leon Blvd.

Roger & Dorothy Wolin

Roger & Dorothy Wolin

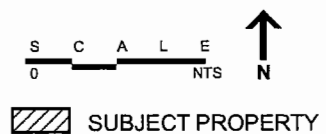
No enforcement recorded





MIAMI-DADE COUNTY HEARING MAP

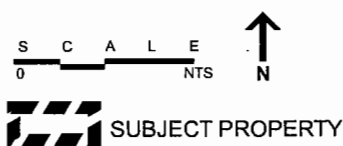
Section: 31 Township: 54 Range: 41
 Process Number: 07-172
 Applicant: ROGER & DOROTHY WOLIN
 Zoning Board: C12
 District Number: 7
 Cadastral: JEFFER
 Scale: NTS





MIAMI-DADE COUNTY
AERIAL

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COMMUNITY ZONING APPEALS BOARD - AREA 12
MEETING OF MONDAY, DECEMBER 3, 2007
KENDALL VILLAGE CENTER - CIVIC PAVILION
8625 SW 124 Avenue, Miami, Florida

ROGER & DOROTHY WOLIN
(07-172)

Members of the Board
Present

Carla Ascencio-Savola, Chair
Jose I. Valdes, Vice-Chair
Robert W. Wilcosky
Elliott N. Zack
Alberto Santana
Edward D. Levinson

STAFF

Jay Williams, Assistant County Attorney
Ed Sanchez, Assistant County Attorney
Lou Salvat, Clerk
Jorge Vital, P&Z Hearing Specialist
Victoria Valdez, P&Z Evaluator

I N D E X
SPEAKERS & PAGE NUMBERS

CHAIRPERSON ASCENCIO-SAVOLA: 3-5, 7-8, 17,
20-22, 30-32, 34-40, 52-55, 60, 62, 66-68,
70-71, 73-75, 77-78.

VICE-CHAIR VALDES: 8, 27-28, 30-32, 34, 36-38,
50, 52-53, 55, 57-60, 62-63, 69-71, 73-74, 77.

BOARD MEMBER WILCOSKY: 4, 78.

BOARD MEMBER ZACK: 4, 77.

BOARD MEMBER SANTANA: 4, 77.

BOARD MEMBER LEVINSON: 4, 37, 60, 70, 74, 77.

BOARD MEMBER BRODEUR: 3, 30, 32, 34, 63-65,
67-75, 77.

STAFF

Ms. Valdez: 5, 8, 37.

Mr. Salvat: 3-4, 74, 77-78.

Mr. Vital: 30-31, 36-37, 62-63.

Mr. Williams: 74.

Mr. Sanchez: 75.

ON BEHALF OF THE APPLICANT

Jerry B. Proctor, Esq: 8, 21, 23, 27-28, 30,
34-35, 40, 48, 50-53, 55, 59-60, 62-65, 70-71,
75, 78.

Ms. Wolin: 17, 71-73.

SUPPORTERS

Mr. Bonnema, 21.

OBJECTORS

Mr. Gibbs: 38-40, 53-55, 58-59, 77.

1 (Thereupon, the following proceedings
2 were had:)

3 CHAIRPERSON ASCENCIO-SAVOLA: Good
4 evening. Welcome to the zoning meeting of
5 Kendall Community Council for December
6 3rd. This is the last meeting of 2007 for
7 our Board. I want to thank you for being
8 here tonight.

9 We're going to start the meeting with
10 pledging allegiance to our flag, and I
11 would like to take a moment of silence in
12 memory of the men and women who has lost
13 their lives recently in the war. I think
14 we should always remember that it's
15 because of them that we're here gathering
16 peacefully tonight.

17 BOARD MEMBER BRODEUR: And the
18 football players.

19 CHAIRPERSON ASCENCIO-SAVOLA: Them,
20 too.

21 (Pledge of Allegiance.)

22 CHAIRPERSON ASCENCIO-SAVOLA: Thank
23 you. You may be seated.

24 Please read through our roll call.

25 MR. SALVAT: Ms. Brodeur?

1 BOARD MEMBER BRODEUR: Here.

2 MR. SALVAT: Mr. Levinson?

3 BOARD MEMBER LEVINSON: Here.

4 MR. SALVAT: Mr. Santana?

5 BOARD MEMBER SANTANA: Here.

6 MR. SALVAT: Vice-Chairman Valdes?

7 No response.

8 CHAIRPERSON ASCENCIO-SAVOLA: He is
9 absent. He was in a deposition, and might
10 join us later on. So it's an excused
11 absence.

12 MR. SALVAT: Mr. Wilcosky?

13 BOARD MEMBER WILCOSKY: Here.

14 MR. SALVAT: Mr. Zack?

15 BOARD MEMBER ZACK: Present.

16 MR. SALVAT: Madam Chair Savola?

17 CHAIRPERSON ASCENCIO-SAVOLA:

18 Present.

19 MR. SALVAT: You have a quorum.

20 CHAIRPERSON ASCENCIO-SAVOLA: Thank
21 you.

22 This is the way we're going to
23 conduct the meeting. We're going to have
24 the court reporter, first of all, swear in
25 the people that are going to speak in

1 front of us tonight. So if you can please
2 stand up, and be sworn by the court
3 reporter.

4 (Thereupon, all interested
5 individuals seeking to present testimony
6 in these proceedings were duly sworn to
7 tell the truth, the whole truth, and
8 nothing but the truth, after which the
9 following transpired:)

10 CHAIRPERSON ASCENCIO-SAVOLA: At this
11 moment, I will entertain any deferrals on
12 any items that are on our agenda tonight.
13 Seeing none, please read the --

14 MS. VALDEZ: In accordance with the
15 Code of Miami-Dade County, all items to be
16 heard tonight have been legally advertised
17 in the newspaper, notices have been
18 mailed, and the properties have been
19 posted.

20 Additional copies of the agenda are
21 available here at the meeting.

22 Items will be called up to be heard
23 by agenda number and name of applicant.

24 The record of hearing on each
25 application will include the records of

1 the Department of Planning and Zoning.
2 All these items are physically present
3 tonight, available to all interested
4 parties, and available to the members of
5 the Board, who may examine items from the
6 record during the hearing.

7 Parties have a right of
8 cross-examination.

9 This statement, along with the fact
10 that all witnesses have been sworn, should
11 be included in any transcript of all or
12 any part of these proceedings.

13 In addition, the following
14 departments have representatives present
15 here at the meeting to address any
16 questions: The Department of Public
17 Works, the Department of Planning and
18 Zoning and the County Attorney's Office.

19 All exhibits used in presentation
20 before the Board will become a part of the
21 public record and will not be returned
22 unless an identical letter-sized copy is
23 submitted for the file.

24 Any persons making impertinent or
25 slanderous remarks, or who becomes

1 boisterous while addressing the Community
2 Zoning Appeals Board, shall be barred from
3 further audience before the Board by the
4 presiding officer unless permission to
5 continue or again address the Board be
6 granted by the majority vote of the Board
7 Members present.

8 The number of filed protests and
9 waivers on each application will be read
10 into the record at the time of each
11 hearing as each application is called.

12 Those items not heard prior to the
13 ending time of this meeting will be
14 deferred to the next available zoning
15 hearing meeting date with this Board.

16 CHAIRPERSON ASCENCIO-SAVOLA: Thank
17 you.

18 When your item gets called, please
19 come forward, state your name and address
20 for the record, and we're going to call
21 the people that are in favor of the
22 application first, and the people who are
23 against the application later.

24 (Thereupon, other matters not related
25 to this case were heard, after which the

1 following transpired:)

2 *****

3 CHAIRPERSON ASCENCIO-SAVOLA: Last
4 item.

5 MS. VALDEZ: Item Number 2.
6 07-12-CZ12-2, Roger and Dorothy Wolin,
7 07-172, six protests, zero waivers.

8 VICE-CHAIR VALDES: Staff, do we need
9 to make a motion to extend the meeting
10 past nine?

11 MS. VALDEZ: We're okay.

12 CHAIRPERSON ASCENCIO-SAVOLA: Hi,
13 good evening.

14 MR. PROCTOR: This is what happens
15 when you hand up things. Everybody starts
16 reading. I don't know if it's a good
17 thing or not.

18 Good evening, Madam Chair, members of
19 the council. Jerry Proctor, Attorney, 200
20 South Biscayne Boulevard, representing the
21 applicants, Roger and Dorothy Wolin. I'm
22 joined by the Wolins's daughter, Melissa,
23 who is right behind me; by my colleague,
24 Alexandra Deas, and by Mr. Bonnema, one of
25 the neighbors to speak in favor at the

1 appropriate time. Ms. Wolin, the
2 applicant's daughter is here tonight.

3 The applicants, Roger and Dorothy
4 Wolin, live in the home that's on this
5 property that we'll be talking about.
6 Roger Wolin is 99 years and two months
7 old, and Dorothy Wolin, Melissa's mother,
8 is a young 90 years old. So Melissa is
9 here representing their interest. And
10 you're going to hear a little bit later
11 why they're doing this at this time. The
12 Wolins have owned this property since
13 1954, and you're going to hear from
14 Ms. Wolin a little later why they're doing
15 this at this time, and what they're trying
16 to do for the future, not only of the
17 property, but for their family.

18 The property is located in the
19 eastern -- very eastern part of your
20 district. I have the section map up here
21 at the top. I would normally try to color
22 in the property up at the top, but there
23 are so many trees that I don't know that
24 you would see anything. It's a beautiful
25 area east of Red Road. Old Cutler comes

1 in down here at the bottom on the
2 right-hand side. The City of Coral Gables
3 is on the eastern fringe. Most of this
4 area, though, is in unincorporated Dade
5 County. This, of course, this northwest
6 quadrant is the area commonly known as
7 High Pines. Most of the lots in this
8 area, and you've had one on your agenda
9 tonight, are 75-foot wide lots, usually
10 125 feet deep. And most of this area is
11 zoned RU-1.

12 I have included at least a portion of
13 this area in a zoning map, which is Tab 1
14 in the material, just to illustrate to
15 some extent, not for the whole section,
16 the zoning in the area. There's a variety
17 of different zonings, a variety of lot
18 sizes. It's pretty much exclusively
19 residential until you hit maybe out here
20 to Red Road. But the area functions
21 beautifully despite the fact that you have
22 a variety of lot sizes and a variety of
23 zonings. I would say that the predominant
24 zoning in the area is RU-1. The zoning on
25 our property right now is EU-1, one-acre

1 estate.

2 Our property -- actually, let me go
3 to this larger map just for one more
4 second -- is in this northeast quadrant of
5 the section. Sunset Drive, 80th Street
6 runs through the middle, and you have
7 Kendall down here to the south. Our
8 property is in this northeast quadrant
9 where you're coming up just a couple of
10 blocks from Coral Gables, where you have a
11 lot of cut-through traffic, people going
12 eventually to US-1 in the University of
13 Miami area, either on 52nd Avenue or on
14 49th Avenue, which is really the avenue
15 where our property is located. If you're
16 coming along 72nd or 80th Street, and you
17 don't go north or south in those areas,
18 you're going to eventually approach and
19 hit Old Cutler over here to your east,
20 which, of course, is in Coral Gables.

21 Our property is located on 49th
22 Avenue, which is one of those feeder
23 avenues, if you will, running north and
24 south through the area. This is a little
25 closer look, and I hope it's a little more

1 meaningful, a little more visible.

2 The property is in red in this
3 location right here. It's 100 feet wide,
4 and about 460 feet deep. It's about a
5 football field and a half deep. It's
6 about 1.2 acres. And as such, it's one of
7 the largest properties left in this area
8 in terms of size for one home. You do
9 have some acre lots and lots approximating
10 an acre up along Sunset Drive, which is up
11 here at the northern edge of this map.
12 Down along 80th Street, you have some
13 larger lots. But you have in this
14 immediate area, which I'll talk a little
15 more about, lots that are predominantly
16 less than an acre.

17 And I want to make that point clear,
18 because the zoning for a lot of this
19 area -- not all of it certainly -- is
20 still EU-1. But what has happened, both
21 through the original development of this
22 area in the late 40's and early 50's and
23 the time since then, is we've had a number
24 of people come in for relief from the code
25 for lot splits or to create smaller lots.

1 And you've had, as my records would
2 indicate, at least about 17 of those
3 occasions just in this immediate area.
4 I'm not talking about High Pines, which
5 has small lots down on Kendall. I'm just
6 talking about this immediate five or
7 six-block area east and west, and the area
8 from Sunset down to 80th Street. I have
9 put in the packages, I think it's in Tab
10 3, a number of those relief efforts that
11 have passed. I couple of them have been
12 rezonings, but the vast majority have been
13 variances of lot area or special
14 exceptions to subdivide to reface.

15 And I know you had a dilemma here
16 earlier where you were trying to decide
17 whether to rezone something or grant
18 variances.

19 What's happened in this area over
20 time is that there have been a number of
21 approvals granted by way of variance.
22 I'll give you one example. This is the
23 development known as Stone Gate. It has
24 an old historic coral rock home. It was
25 developed in kind of a cluster arrangement

1 here. The lots -- and I believe it still
2 has EU-1 zoning, but it was approved as a
3 cluster development, I believe, by the
4 zoning appeals board. It's one of the
5 approvals in your package. All of the
6 lots in this area are less than one acre,
7 even though the zoning is one acre, EU-1.

8 We are asking -- and going back to
9 our property, we have a home that the
10 Wolins have lived in since 1954 in the
11 center of the property. There is a guest
12 home or cottage in the rear of the
13 property. So there are two separate
14 residential structures already on the
15 property. We are asking for a rezoning or
16 a variance of lot area to eventually, and
17 we'll talk about the eventually part in a
18 minute, split this lot and create two home
19 sites. When that happens, this home
20 that's located in the approximate center
21 will have to come down, and there will be
22 a new home or probably two new homes
23 placed on the property, one facing 49th
24 avenue, the main thoroughfare in this
25 area, and one facing 48th Place.

1 48th Place is a wonderful little
2 dead-end street here. I had the pleasure
3 of going down it the other day. There's
4 just three or four houses here. There's
5 one house to the south of the Wolin
6 property, tree-lined like much of the
7 area, absolutely beautiful trees in the
8 swale on both sides of the street,
9 beautiful, older homes in the area.

10 And what we are essentially asking
11 for is to have one home eventually, one
12 separate home site face 48th place to the
13 east, and the second principal residence,
14 if you will, or at least the current
15 principal residence, face 49th Avenue.
16 Each one of these two lots would be about
17 26,900 square feet in area. They would be
18 served by public water and septic tank.
19 There is no sewer in this immediate area,
20 but the rules allow septic tank for that
21 size of lot.

22 What are all these dots? Every one
23 of these dots represents lots that are
24 today, because of the zoning or because of
25 other relief granted, smaller than either

1 of the lots that we're requesting in this
2 application. You have an RU-1 zoning over
3 here. This Board approved a rezoning and
4 a lot split on 76th Street and 47th Avenue
5 about a year ago. I think that's the last
6 time you had an application in this area.
7 It was in this area right here
8 (indicating), and it was approved
9 unanimously by this Board.

10 We are asking for two lots of an
11 approximately six tenths of an acre each.
12 And again, we have right now one of the
13 very largest lots, especially in this
14 immediate area. There are a couple of
15 lots in the area that are an acre in size,
16 but they are the exception, not the rule.
17 And we have a situation here where we
18 would be facing one lot on this public
19 street, 49th Avenue, and the second home
20 on this wonderful dead-end public street,
21 48th place.

22 As an ancillary request, we have a
23 utility shed on this eastern lot now that
24 is 7.7 feet from the property line. We're
25 asking that it remain. It's obviously not

1 the major part of what we're asking for,
2 but that's I think the last request.

3 Let me -- I have a couple more
4 remarks, but if I can break up our
5 presentation, I'd like to ask Ms. Wolin to
6 come forward and Mr. Bonnema. They have
7 not been sworn. They came in a little bit
8 late, and then I will wrap up, if that's
9 acceptable to the Board.

10 CHAIRPERSON ASCENCIO-SAVOLA: All
11 right, you can swear them in.

12 (Individuals sworn in by the court
13 reporter).

14 CHAIRPERSON ASCENCIO-SAVOLA: Please
15 state your name and address for the
16 record.

17 MS. WOLIN: Thank you. My name is
18 Melissa Wolin. I live at 7677 Ponce
19 De Leon Road or Southwest 49th Avenue.
20 And the reason I'm here is just to try and
21 tell my story. As you know, I'm a born
22 and raised Miamian. I'm a native. I care
23 about this property. And every time I
24 lose a tree in a hurricane, I cry. It
25 breaks my heart. So, basically, the

1 reason for this whole request is for
2 family planning purposes. My parents, as
3 you hear, are very, very along in age, and
4 my father would like to leave me a piece
5 of the property so that I have a place to
6 live instead of the big house, because of
7 taxes. I have been employed by the
8 Miami-Dade County school system for 33
9 years in teaching, and then have -- now as
10 principal of the school. So I am a
11 community, a valid community -- a member
12 of the community, and have worked very
13 hard. The whole thing is that my dad
14 would like to leave me some small piece.
15 There was the property -- the cottage that
16 is there now was a stable when Steve
17 Hessen (phonetic) built the property in
18 1952. So it was a concrete building when
19 it was there, and we just created, you
20 know, a small cottage out of it so that I
21 would have, you know, a little space when
22 taking care of them. For the exception of
23 10 years of renting, I have lived with my
24 parents -- you know, left when I got
25 married and then came back to take care of

1 them, because of health issues. They are
2 both extremely handicapped at this point,
3 both -- well, not both blind and deaf.

4 Dad is blind and deaf, mom has COPD, and
5 is blind as well. So I am there on the
6 property to help take care of them, and
7 that is the whole reasoning for this.

8 There is nothing that will be changed on
9 this property until it has to be sold.

10 My idea is that after my parents
11 pass, God forgive me, if I live through
12 it, that perhaps, because of the taxes --
13 the taxes at this point are, I don't know
14 if you're interested, \$24,000. It's more
15 than a quarter of my salary, and so the
16 whole idea is so that I can afford to
17 continue to live in what we call our
18 little piece of paradise in Miami. And I
19 do call it my little piece of paradise,
20 because I work in Hialeah. So driving
21 from that area everyday, and just seeing
22 what we have and have had for 50 some odd
23 years, almost 60 years, is just, you
24 know -- this is what I call coming home to
25 paradise. And so that's basically the end

1 of the tale.

2 I have known the neighborhood and all
3 of my neighbors for many, many years. The
4 approvals that you have are the people
5 that have signed the little petition that
6 I did, were just who I could get yesterday
7 who were home and I could knock on their
8 doors. I should have probably started
9 working on this a long time ago, but as
10 you know, principals are very busy people.
11 At any rate, that's basically the end of
12 my tale.

13 If you have any questions -- I do not
14 plan on doing anything with this property.
15 In fact, Charlotte Leatherman that lives
16 just to the south of us said, "You know, I
17 would prefer that you divide this property
18 and hold on to it, because then once it is
19 sold, somebody would be able to come in
20 and build some huge McMansion on it,"
21 which many of the area around there they
22 have built very, very large homes. In
23 fact, I look at them and I go, "Who wants
24 to vacuum all these rooms?"

25 At any rate, not to take up anymore

1 of your time, I know that everybody is
2 tired, but that's my story.

3 Thank you.

4 CHAIRPERSON ASCENCIO-SAVOLA: Thank
5 you. Appreciate it.

6 MR. BONNEMA: John Bonnema, 5035
7 Southwest 76 Street, just around the
8 block. I have no objections. I've lived
9 in the area since '65, so I have no
10 objections for this. I was really
11 surprised that the lot wasn't two lots,
12 you know, split in half already, which the
13 other properties are. That's my two
14 cents.

15 CHAIRPERSON ASCENCIO-SAVOLA: Thank
16 you.

17 MR. BONNEMA: Thank you.

18 MR. PROCTOR: Madam Chair, I'd like
19 to pass forward the waivers of objection
20 that Ms. Wolin spoke of.

21 CHAIRPERSON ASCENCIO-SAVOLA: Thank
22 you.

23 MR. PROCTOR: There are nine waivers
24 of objection all from the immediate area,
25 one block or west. Mr. Bonnema and

1 another one of the neighbors are over here
2 on 76th Street.

3 The Bird Family, which owns several
4 of these properties along 48th Court, and
5 would be affected eventually by the
6 redevelopment of this property, have all
7 waived any objection.

8 The Kirtland Family, which is
9 abutting here to the south, their lot is
10 actually 23,000 square feet in size. It's
11 one of the many that I talked about
12 earlier that has already been subdivided.
13 Their home is located very close to the
14 property line here. It looks like about
15 10 feet, and they would be affected
16 eventually by redevelopment even if it
17 stays in the Wolin Family, and they have
18 waived objection as well.

19 I want to go focus in on this area,
20 because I know that you would want to
21 focus in on it as well.

22 There are three lots approved
23 directly to our north. There are actually
24 two homes now. There's a home here that
25 was subdivided by action of the County

1 Commission, I think in 2005. It's one of
2 the items in your package. I saw you
3 looking at it earlier.

4 CHAIRPERSON ASCENCIO-SAVOLA: I was
5 shocked. I didn't know they had approved
6 it.

7 MR. PROCTOR: So we have three home
8 sites to our north. Having said that, I
9 think that -- I can't speak for these
10 owners. I don't think they have legally
11 subdivided. They're moving slowly for
12 whatever reason, just like we would
13 probably move slowly if we're to get this
14 approved for the reasons that you've
15 heard. But the point being, you have
16 three home sites to our north. You have
17 two home sites to our south. The smaller
18 residence here, and a large piece of
19 property directly to our south. The
20 beauty of this proposal, in our opinion,
21 is that what you're going to have here
22 short term is what you have now. What
23 you're going to have long term is going to
24 match wonderfully with what's around it:
25 Two residential sites, one on this street,

1 one on this 48th place; two against three
2 home sites to our north; two home sites to
3 our south, one home site to our east, and
4 actually two home sites already to our
5 west. These are 75-foot home sites.

6 And, again, it goes to the kind of
7 variability and uniqueness of this area.
8 You have one-acre homes in part of this
9 area. We have a 1.2-acre home. You have
10 75-foot lots with very nice houses. I'm
11 not denigrating what's there, but you have
12 a situation where these folks already have
13 in terms of impact on 49th Avenue more
14 than we're ever going to have.

15 So I think if we really focus in on
16 this area, it wouldn't be appropriate for
17 us to ask for three houses or a flag lot
18 or anything of that sort, because we're
19 not on a corner, but we do have two
20 streets. We would have one house on one
21 street, and one house on the other. And
22 we think it fits perfectly. In fact, what
23 we have right now really doesn't fit.
24 We're the anomaly in the immediate area.

25 I want to point out just one more

1 thing, and I think this is important, and
2 I know that you weigh these lot splits
3 very carefully. Some of them get
4 approved, and some of them don't, and
5 they're all -- the ones that get approved
6 are all hard earned, and probably for good
7 reason.

8 The Master Plan.

9 We have 1.2 acres with one home on it
10 at the moment. If the Board were to deny
11 this application, I believe that it would
12 be in violation of the master plan. Why
13 do I say that? Let me read from the
14 master plan. "In order to efficiently
15 use, and not prematurely deplete the
16 finite development capacity that exists
17 inside the planned urban development
18 boundary, land should not be developed at
19 densities lower than the minimum
20 established for each category." The
21 minimum density in this master plan
22 category and zoning category is one unit
23 per acre. Right now we have less than one
24 unit per acre. We have one home on one
25 and a quarter acres.

1 If this application is denied, then
2 you have a couple of options to approve
3 it, the rezoning or the lot area, either
4 of which we would accept. If this
5 application is denied, we believe that
6 you're in violation of your master plan.

7 Now, let me not tell an incomplete
8 story. The language in the code does go
9 on and say the following: "Exceptions to
10 the minimums may exist outside
11 transportation or transit corridors where
12 such an exception would serve the interest
13 of compatibility or protect the public,
14 health or safety or protect important
15 resources." You have an out, a
16 compatibility out. We believe this is
17 compatible. We believe that you have
18 essentially two residences on the
19 property, two residential dwellings on
20 property now. We don't believe we're
21 going to be taxing public resources, or
22 endangering public health in any way by
23 this application. And, most importantly,
24 we think we're compatible. We think we're
25 absolutely compatible with the immediate

1 area, and very compatible with what has
2 already happened in the surrounding area.

3 And I think that's why -- and I know
4 each application stands on its own. I
5 think that's why over the 30 or 40 years
6 you've had 17 or so exceptions in this
7 area that have been granted by either the
8 County Commission, the Zoning Appeals
9 Board or this Board. I think there have
10 been six granted by this Board in the time
11 that you've been in existence.

12 So we believe we're compatible. I'll
13 reserve some time for rebuttal, and be
14 happy to answer any questions.

15 VICE-CHAIR VALDES: Madam Chair?

16 Mr. Proctor, on the site plan that we
17 have, when it gets reduced, you can barely
18 read the numbers. The lot size -- what
19 are the dimensions of the lot right now?
20 It's roughly 100 by 500 or something like
21 that?

22 MR. PROCTOR: A hundred by 460.

23 VICE-CHAIR VALDES: Okay.

24 MR. PROCTOR: The lots that we create
25 would be 100 by 230. We've split it

1 equally.

2 VICE-CHAIR VALDES: Right now is
3 there any comparable lot that has that
4 configuration? In other words, that you
5 have a lot that's roughly 100 by 500 that
6 has access to two roads? Is this a unique
7 property in that sense?

8 MR. PROCTOR: We think it's unique in
9 this immediate area. There are some
10 one-acre lots down here along 80th Street
11 up in the Sunset area. These lots here
12 have dual street frontage, but they're
13 much smaller than our lot. And we think
14 if they came in and asked for relief, that
15 their numbers, their lot sizes would be
16 substantially smaller than ours. We
17 think -- we know this is one of the
18 largest properties in the area, and we
19 think it's -- we can't find another one
20 certainly in this immediate area here that
21 has this characteristic and dual streets.

22 VICE-CHAIR VALDES: That was my
23 point. I mean, when I drove around, I
24 couldn't find anything comparable. We
25 were dealing with a property that roughly

1 has dimensions of one by five, and that
2 fronts two streets.

3 MR. PROCTOR: Right.

4 And I would say one other quick
5 thing. Obviously if this application is
6 approved, there will be change at some
7 point. It may or may not change
8 ownership, but this is setting the way for
9 change, even if it's 10 or more years from
10 now.

11 But I would say one other thing. If
12 and when we have new homes on this
13 property, or a new home, you're going to
14 have the side yards abutting our
15 neighbors. Side yards typically have the
16 least impact on a neighbor. It's not
17 typically where you have your tennis
18 court -- you don't have room to put a
19 tennis court here. It's not where you
20 have your pool. It's not typically where
21 you have your driveway. You may have your
22 bedrooms, and you may have bedroom
23 windows, but we have folks with rear yards
24 here and 25-foot setbacks, especially
25 these new lots, and we're going to have

1 our side yard, which typically, just in a
2 general sense, have a lesser impact. So
3 we're going to have -- typically, the
4 largest impact on a home in terms of noise
5 and visibility and such is the front and
6 the rear. So we're going to have our
7 greatest impact where we have it now, 49th
8 Avenue and 48th Place.

9 MR. VITAL: If I may through the
10 Chair?

11 CHAIRPERSON ASCENCIO-SAVOLA: Sure.

12 MR. VITAL: Just to add to what
13 Mr. Valdes said, one of the main concerns
14 that staff has is that there are no
15 similar approvals in the immediate
16 vicinity for EU-S with 100 feet of
17 frontage. Once again, the main thing here
18 is the 100 feet of frontage. If you
19 approve this, this is going to set a
20 precedence for other properties to come in
21 asking for 100 feet.

22 VICE-CHAIR VALDES: I have a question
23 of staff. Right now, as an EU-1, it's
24 nonconforming because of the
25 configuration, right? It's a

1 nonconforming EU-1 lot?

2 BOARD MEMBER BRODEUR: What do you
3 mean by nonconforming?

4 VICE-CHAIR VALDES: It doesn't have
5 the frontage. It got grandfathered in
6 because of -- when it was platted --

7 MR. PROCTOR: Not correct.

8 VICE-CHAIR VALDES: But as it stands
9 right now, if they wanted to build under
10 the current zoning designation, they
11 couldn't without coming in to get
12 variances, because it's a nonconforming
13 lot. Am I correct?

14 CHAIRPERSON ASCENCIO-SAVOLA: He's
15 correct.

16 VICE-CHAIR VALDES: I mean, is it an
17 anomaly in that sense?

18 MR. VITAL: They could rebuild
19 exactly what they have on the property,
20 but they cannot modify what they have. If
21 they modify whatever structure they have,
22 or if they want to build a new structure,
23 they need to conform with today's code.
24 And if you were to conform to the EU-1
25 requirements, specifically the side

1 setbacks and the front setbacks, they
2 couldn't build anything without variances,
3 right?

4 MR. VITAL: Correct.

5 VICE-CHAIR VALDES: And rather
6 significant variances, right?

7 MR. VITAL: Correct.

8 VICE-CHAIR VALDES: Does it make it
9 unique in that sense? I mean, is there
10 any other property within that area? I
11 know you all did a great job on the
12 research, but is there any other property
13 that you could take a look at that has
14 this problem that it's nonconforming? I
15 mean, if they were to -- I mean, you're
16 getting to a point where whatever is on
17 the property becomes functionally
18 obsolete, so you've got to rebuild, knock
19 down and rebuild. And they can't comply
20 with the existing zoning, because they got
21 grandfathered in.

22 BOARD MEMBER BRODEUR: Excuse me,
23 Mr. -- since it's my district, Dean
24 Housler's house is like that from --

25 CHAIRPERSON ASCENCIO-SAVOLA: Ms.

1 Brodeur, please speak on the mike.

2 BOARD MEMBER BRODEUR: Dean Housler's
3 house is like that from the University of
4 Miami, and our next-door neighbor, and
5 there are several houses like that, that
6 were older built houses that have this
7 type of long length and short width. This
8 is not -- this furthermore has a unique
9 address. Your address is a very prominent
10 address. So it has to be handled very
11 carefully. And you're not the only one
12 who has tax problems in the area. Mrs.
13 Housler had tax problems. Dr. Housler
14 died from the University of Miami. And
15 this is many of the problems that people
16 have with big properties. But we have to
17 consider the land. Everyone has, today, a
18 tax problem. I have a tax problem, and I
19 live on Red Road. I have a tax problem,
20 and I would like to leave something to my
21 kids. So this is not a unique situation
22 that people have in today's world on those
23 types of pieces of property, but this is a
24 unique piece of property, and it's not the
25 only one in the area.

1 And I think the County has very well
2 put together their idea about how any
3 changes would affect that whole area.
4 That area may have had some changes, but
5 the changes did not come from community
6 council, as learned counsellor knows that
7 we are very tough in that neighborhood.
8 And since we have a long time relationship
9 with your learned counsel, we know each
10 other well, and I've got a lot of respect
11 for Jerry.

12 MR. PROCTOR: Thank you.

13 BOARD MEMBER BRODEUR: Mr. Proctor.
14 But this is a very prominent street, and
15 you know it, and I know it, and we have to
16 handle this property very carefully,
17 because of the nature of the location.

18 MR. PROCTOR: Madam Chair, I know you
19 want to hear from others.

20 CHAIRPERSON ASCENCIO-SAVOLA: Yes.

21 MR. PROCTOR: I want to make sure the
22 record is clear. The lot that we have
23 right now is legal. It's a platted lot.
24 We or someone else could come in and build
25 or re-build one home. We can't built two

1 unless we get your approval. And as long
2 as we meet the setbacks and the lot
3 coverage, that can be done.

4 VICE-CHAIR VALDES: But my point was
5 you'd have to build an extremely narrow
6 and long home to meet with the setback
7 requirements of EU-1. I mean, am I
8 correct in that regard?

9 MR. PROCTOR: You're correct, but a
10 home, an attractive home could be built
11 under EU-1. We are simply asking for the
12 relief so that two attractive homes could
13 be built with the EU-1. You don't have
14 to, although we would welcome a rezone of
15 the property to EU-S. Under either
16 scenario, one or two attractive homes
17 could be built. They're going to be
18 constrained by setbacks. They're probably
19 not going to be called McMansions. I
20 don't know what a McMansion is exactly, so
21 I tread on that kind of lightly.

22 But, you know, the property is not an
23 acre property -- would not be an acre
24 property when it's over with, if this is
25 approved. There are going to be some

1 constraints, but we're aware of those, and
2 we think those constraints actually help
3 make it compatible.

4 CHAIRPERSON ASCENCIO-SAVOLA: Thank
5 you.

6 MR. PROCTOR: Thank you.

7 CHAIRPERSON ASCENCIO-SAVOLA: I would
8 like to hear from --

9 MR. VITAL: If I may?

10 CHAIRPERSON ASCENCIO-SAVOLA: I'm
11 sorry?

12 MR. VITAL: If I may through the
13 Chair?

14 CHAIRPERSON ASCENCIO-SAVOLA: Yes.

15 MR. VITAL: To clarify a point in
16 regards to the frontage of the lot, this
17 is a platted lot for 100 feet. So in case
18 they demolish the house or they want to
19 modify the house, the frontage is
20 grandfathered in. However, the structure
21 has to comply with today's code. What
22 they're requesting is to subdivide the
23 lot. That's not grandfathered in. The
24 frontage would not be grandfathered in
25 when they're subdividing the lot.

1 VICE-CHAIR VALDES: Okay. But if
2 they're going to tear down and build --
3 I'm sorry, through the Chair?

4 CHAIRPERSON ASCENCIO-SAVOLA: Go
5 ahead.

6 VICE-CHAIR VALDES: For argument's
7 sake, if they tear down the structure
8 that's now there because it's functionally
9 obsolete, and they build another house,
10 they have to comply with the setback
11 requirements of EU-1. What are the
12 setback requirements?

13 MS. VALDEZ: The setbacks are 50 from
14 the front, 25 from the rear, 15 from the
15 anterior side.

16 VICE-CHAIR VALDES: Fifteen on EU-1?

17 CHAIRPERSON ASCENCIO-SAVOLA: Fifteen
18 from the side?

19 VICE-CHAIR VALDES: Fifteen on the --

20 MR. VITAL: Fifteen.

21 CHAIRPERSON ASCENCIO-SAVOLA: Oh, 15?

22 MS. VALDEZ: Yes, from the anterior
23 side.

24 VICE-CHAIR VALDES: Wasn't 15 on
25 EU-M?

1 MS. VALDEZ: Fifty for the front.

2 VICE-CHAIR VALDES: Okay.

3 MS. VALDEZ: And 15 for the anterior
4 side.

5 BOARD MEMBER LEVINSON: So that
6 leaves the capability of a 70-foot wide
7 house, which is more than substantial.

8 CHAIRPERSON ASCENCIO-SAVOLA: Please.
9 You would be opposing this application,
10 correct?

11 MR. GIBBS: Good evening. My name is
12 Tucker Gibbs with law offices at 2980
13 McFarland Road in Coconut Grove, and I'm
14 here representing Mr. Russ Oasis who lives
15 at 4840 Southwest 80th Street and received
16 notice of this application. He also is
17 part owner of 4850 Davis Road, and is
18 objecting to this application.

19 CHAIRPERSON ASCENCIO-SAVOLA: Mr.
20 Gibbs?

21 MR. GIBBS: Yes.

22 CHAIRPERSON ASCENCIO-SAVOLA: Can you
23 tell me on the map where those properties
24 are, so that way I understand.

25 MR. GIBBS: For this particular

1 application, I was just --

2 VICE-CHAIR VALDES: Tucker, take your
3 mike.

4 MR. GIBBS: Okay, thank you. I was
5 just retained this afternoon, so I have to
6 be very careful.

7 CHAIRPERSON ASCENCIO-SAVOLA: Okay.

8 MR. GIBBS: I think he is right down
9 here on Davis Road. I think this is Davis
10 Road, right here, and he's right down
11 here.

12 CHAIRPERSON ASCENCIO-SAVOLA: Okay.
13 And the second property is?

14 MR. GIBBS: Right next door to it.
15 He has the two pieces.

16 CHAIRPERSON ASCENCIO-SAVOLA: Oh,
17 okay, perfect. Thank you.

18 MR. GIBBS: He also was here in 2005
19 objecting to that lot split. And his
20 position is, and he has a strong position
21 as a long-time neighbor of over 30 years
22 in the neighborhood, that he objects to
23 lot splits as a matter of form, and has
24 done so.

25 Let's look at the application. It's

1 nothing more -- what it is, it doubles the
2 density of this particular piece of
3 property. It goes from one to two.

4 The Community Council has rejected
5 this in the past, and for good reason.
6 The zoning code has established the
7 character of this neighborhood. If you
8 look at your backup, I know this map has a
9 lot of these dots showing these, for lack
10 of a better word, smaller lots. And
11 notice where they are. They're all out
12 here. They're on the periphery. They're
13 not --

14 CHAIRPERSON ASCENCIO-SAVOLA: In the
15 middle.

16 MR. GIBBS: -- predominantly around
17 this project. And that's very important.
18 This is the map I'm referring to, is the
19 map in your package. And you see there
20 are three areas that have been actually
21 re-zoned to RU-1 and to EU-M.

22 I have a lot of respect for Mr.
23 Proctor. He's an excellent attorney, and
24 an excellent advocate for his client, but
25 I have a problem with coming into a

1 neighborhood bit by bit and saying, we're
2 going to do a lot split here. There are
3 17 lot splits since whenever it was, 1990,
4 and therefore this neighborhood is
5 dynamic, because it has all these
6 different things. I see it a little
7 differently, and so does my client.

8 This is about a neighborhood that has
9 been nibbled away at little by little, lot
10 by lot. That's what you see here, and
11 that's the problem. The answer I have to
12 that is, if you all want to look for
13 unique situations for each of these lots,
14 and then give them these variances because
15 of that, that's not good planning. Your
16 planning department has said that to you:
17 This is not good planning. If you all
18 think this neighborhood needs to be
19 changed, step up to the plate, get a
20 charrette together, you all have done it
21 before, and you get this neighborhood
22 around a table and you find out really
23 what this neighborhood wants. Because I
24 don't think this neighborhood wants to
25 take every single lot and make it 26,000

1 square feet despite what community
2 councils or the County Commission has
3 done, despite what you all have
4 recommended.

5 So, I mean, the map is really pretty,
6 the small lots are really interesting, but
7 at the end of the day, this is about a
8 neighborhood, and this is about a
9 neighborhood's integrity, and that's what
10 we're talking about.

11 Let's look to your staff's
12 recommendation, because at the end of the
13 day also you base your decision on
14 competent and substantial evidence, and
15 that's your staff. And your staff has
16 been very, very strong in saying that this
17 application should be denied.

18 Let's look at the rezoning first.
19 The rezoning, according to your staff, is
20 incompatible with the surrounding EU-1
21 zoning in the area. Quite frankly, it's
22 spot zoning, and I'll get to that in a
23 second. It can foster the introduction of
24 more intense residential zoning districts.

25 If you want RU-1, if you want EU-M,

1 if you want EU-S, then do it for the whole
2 neighborhood. Don't just do it bit by
3 bit. And please, for heaven's sake, don't
4 do it lot by lot. That kind of rezoning
5 is ridiculous.

6 Let's look to the alternative site
7 development plan, which is an application
8 that they're trying -- that's an
9 alternative. It's an alternative site
10 development plan. There is no site
11 development plan that's been presented to
12 you. There's nothing here that shows what
13 they're going to build. You talk about
14 setbacks. You don't know what's going to
15 be built. You're being asked to give
16 these people something that they can do
17 anything with. So that alternative site
18 plan doesn't apply.

19 Let's say it even applied. If you
20 look at your staff recommendation, and
21 they also do a good job just talking about
22 what the requirements are in the code. In
23 the section in the alternative site
24 plan -- site development option, part of
25 it talks about lot area frontage or depth.

1 Even that part of this application doesn't
2 apply. The lot area is not less than 90
3 percent of the minimum lot area required.
4 The proposed alternative development will
5 not result in an obvious -- will result in
6 an obvious departure from the aesthetic
7 character of the immediate area. The
8 immediate area is one-acre development.
9 The immediate area surrounding it. It
10 doesn't even meet those lot area issues in
11 the alternative development option. The
12 fact is that no site plan, no alternative
13 site development option. That can't even
14 apply.

15 And finally, the non-use variance.
16 Your staff, again, goes through the
17 standards. It doesn't maintain the basic
18 intent of the purpose of the zoning
19 subdivision or other land use regulations.
20 What are those regulations? It's EU-1.
21 Tell me how this lot split maintains what
22 EU-1 is all about. EU-1 is about acre
23 lots. That's what it's about, not
24 half-acre lots, not quarter-acre lots. So
25 it does not meet the standard in your

1 code, as your staff has told you. Your
2 staff has told you it's incompatible with
3 the surrounding area, and it would be
4 detrimental. Why? It permits lots with
5 less area than required. Your EU-1
6 doesn't allow that. It permits lots with
7 less frontage, i.e., I understand that
8 it's grandfathered in -- that lot frontage
9 is grandfathered in, but the reality is
10 that by doing this you're now saying that
11 people can now bring their lot frontages
12 down to 100 from 125.

13 On the utility shed and the setback,
14 staff is right on. It is excessive,
15 possibly intrusive. It's too close to the
16 neighbor's property when you go forward.
17 In the alternative non-use variance, it
18 doesn't meet the hardship standard, so
19 that doesn't even apply.

20 I want to talk to you a second about
21 spot zoning. He's asked for a rezoning.
22 The rezoning is spot zoning, and I want to
23 talk to you about it, because spot zoning
24 is not just about changing the zoning,
25 it's about changing the character.

1 The Third District Court of Appeal
2 has talked about what spot zoning is.
3 Spot zoning. They define it as the
4 piecemeal rezoning of small parcels of
5 land to greater density leading to
6 disharmony with the surrounding area.
7 That's what this is. It's a small piece
8 of property they want to rezone, and
9 there's not a single bit of EU-S anywhere
10 around this. That's spot zoning. The
11 court in other cases has also said spot
12 zoning gives preferential treatment to one
13 parcel at the expense of the zoning scheme
14 as a whole. That's textbook. You're
15 rezoning a piece of property just to give
16 it special preference to allow them to do
17 something that nobody else in an EU-1 is
18 allowed to do.

19 Finally, spot zoning creates a small
20 island of property with restrictions on
21 its use different than that of surrounding
22 properties solely for the benefit of the
23 property owner. That's what this is
24 about.

25 I appreciate this property owner's

1 problems. I really do. My heart goes out
2 to them. I mean, I was a member of a big
3 family. My father owned property. We had
4 to sell the property. We couldn't live
5 there. And believe me, I wanted to live
6 in that house. I couldn't afford it. I
7 had to move somewhere else. It's a
8 terrible thing. It's what happens. I
9 want them to try to find a way to resolve
10 that, but this isn't the way to do it.

11 There's an old saying, if it quacks
12 like a duck, and if it looks like a duck,
13 it's probably a duck. And here, no matter
14 how you consider this application -- you
15 want to consider it a rezoning, you want
16 to consider it an alternative site plan,
17 you want to consider it a non-use
18 variance, it is spot zoning. It takes a
19 parcel that now meets the zoning code, it
20 does. It meets the zoning code, and
21 divides it into two where such division is
22 not permitted under the existing zoning
23 district. It benefits no one else but the
24 property owner. It is detrimental to the
25 neighborhood, because it will change the

1 character of the neighborhood.

2 Don't kid yourselves. Every time you
3 do a lot split, you are changing the
4 character of the neighborhood. People
5 should step up to the plate and say, you
6 know what, this neighborhood is changing,
7 let's rezone the whole neighborhood. Have
8 the guts to do that. If the Planning
9 Department tells you that's what's needed,
10 if you have a charrette where the
11 community comes to you and says it, then
12 dog gone it, you should do it, but don't
13 do it this way. This is the wrong way to
14 do it.

15 So I leave you with this request.
16 Please look at this neighborhood, listen
17 to your professional staff, look at what
18 this application really is and reject this
19 attempt to change the character of this
20 neighborhood.

21 Thank you.

22 MR. PROCTOR: Just a few words in
23 rebuttal. I always enjoy going up against
24 Mr. Gibbs. I'm serious about that.

25 First of all, his client has property

1 down on 80th Street where the predominant
2 use and the predominant zoning is one-acre
3 zoning. We are four blocks north of that
4 area. We're almost a quarter mile from
5 that area, and we're in an area that has a
6 different pattern. And I will grant you
7 that the pattern has been established over
8 time. It wasn't done with some kind of
9 master rezoning in the 40's, although that
10 was part of what created it. It was done
11 at that time. And as people have come in,
12 as circumstances like this have arisen,
13 people have attempted to make changes to
14 their property.

15 Mr. Machoso (phonetic), who was your
16 last applicant in that area, attempted to
17 do so here on 76th Street. I think this
18 should have three dots on it now, because
19 he subdivided one dot into two
20 essentially, and he got your support,
21 because you thought that it was compatible
22 with the zoning in the area, with the lot
23 sizes, with the light and air of the
24 residences, and with how the residences
25 would align with their neighbors. We will

1 have at the end of the day, many days from
2 now, residences that align with our
3 neighbors. They do not have greater
4 density. They do not block light and
5 air -- in fact, they block light and air
6 to a lesser extent over on our east side,
7 because of what's happened here to the
8 north.

9 Let me talk about frontage.

10 We have 100 feet of the frontage on
11 both streets. These lots have 125 feet of
12 frontage on 76th Street. The lots on 48th
13 Court have 100 feet of frontage. They're
14 platted legal lots. The lots across 49th
15 Avenue have 75 feet of frontage. They're
16 platted legal lots. A 100-foot lot or two
17 100-foot lots in this area is completely
18 compactible with what we have.

19 And, again, I understand that what we
20 have around us was created over many
21 years. It wasn't done in a master planned
22 kind of way, but it is an absolutely
23 beautiful area. And the action that this
24 Board took for Mr. Machoso here, and that
25 it's taken on other applications has not

1 resulted in incompatibility at all. It
2 hasn't resulted in lower property values
3 at all. This is a beautiful area, and
4 it's going to remain as such.

5 VICE-CHAIR VALDES: Madam Chair, I'm
6 sorry, if Mr. Proctor is finished, I have
7 a question.

8 I understand that a lot of this
9 development is lots that were platted in
10 the 40's and 50's that have been
11 grandfathered in. It is zoned -- the
12 immediate area, with the exception of the
13 properties to your west, are zoned EU-M.
14 When I drove it the other day -- my
15 question to you, although on paper, a lot
16 of the surrounding properties are EU-M --
17 EU-1, excuse me, how many of them are
18 actually conforming EU-M? And the reason
19 I ask this, a lot of the stuff, from what
20 I appeared -- and correct me if I'm wrong,
21 a lot of that stuff, although on paper,
22 they're EU-1, but they're non-conforming
23 EU-1's because they were grandfathered in.
24 So, yeah, on paper, quote, unquote,
25 they're EU-1, but in reality, they're

1 non-conforming EU-1's.

2 MR. PROCTOR: These two lots to our
3 north and south that would be our -- that
4 are northern and southern neighbors are
5 one acre in size. These properties are
6 much smaller than what we're asking for.
7 These two properties are essentially the
8 same size overall that we're asking for
9 here. They're in the 26 to 28,000 square
10 foot, much less than an acre. This
11 property here is 23,000 square feet.

12 One of the resolutions at the back
13 of, I think it's Tab 2, is when this
14 actually got subdivided, which was 40 or
15 so years ago. It's on the long paper.
16 That's how long ago it was. So these two
17 properties here, in the immediate area,
18 are the only one-acre properties.

19 CHAIRPERSON ASCENCIO-SAVOLA: I have
20 a question.

21 MR. PROCTOR: Yes.

22 CHAIRPERSON ASCENCIO-SAVOLA: When
23 they split the lot on the corner that you
24 have in blue, it did not change their
25 EU-1, correct?

1 MR. PROCTOR: That's correct, they
2 got a variance.

3 VICE-CHAIR VALDES: They all
4 appear -- I shouldn't say all. That's not
5 fair. A lot of them appear to be, when I
6 drove it the other day, as non-conforming
7 EU-1 lots. Yes, on paper they're EU-1
8 lots, but the reality is, they're not,
9 because either they were grandfathered in,
10 or they had gotten variances.

11 MR. PROCTOR: I'm sorry?

12 VICE-CHAIR VALDES: I'm sorry, when I
13 was driving it the other day, it goes
14 back -- I mean, yes, on paper they're EU-1
15 lots, but in reality, they're
16 non-conforming EU-1 lots, because either
17 they got grandfathered in or had been
18 granted a variance. I mean, is that a
19 fair assessment?

20 MR. PROCTOR: Yes. In that immediate
21 area, that's correct.

22 CHAIRPERSON ASCENCIO-SAVOLA: And to
23 answer your question, Mr. Gibbs, what this
24 neighborhood wants, they want to be part
25 of Coral Gables. So I guess they want to

1 be looking like those dots that you see on
2 one side, and South Miami like the ones
3 you see on the other side. So --

4 MR. GIBBS: May I respond to that?

5 CHAIRPERSON ASCENCIO-SAVOLA: Yes.

6 MR. GIBBS: I represent Little
7 Gables, so I'm very familiar with the
8 effort to annex into Coral Gables for Ponce
9 Davis, and High Pines. And I will tell
10 you, one of the issues -- one of the big
11 issues is lot splitting, because Coral
12 Gables has a real problem with lot
13 splitting and that's one of the reasons
14 why these people want to go in.

15 CHAIRPERSON ASCENCIO-SAVOLA: Well,
16 but they don't have -- if they become
17 Coral Gables, this is what's coming to
18 them.

19 MR. GIBBS: Not necessarily.

20 CHAIRPERSON ASCENCIO-SAVOLA: Why?

21 MR. GIBBS: Let me tell you
22 something. Believe me, it's one of the
23 things that I've been told by the people
24 who were trying to do this. That's what
25 they want, Consistency in zoning. That's

1 what they want, and they feel they're not
2 getting it at the county.

3 CHAIRPERSON ASCENCIO-SAVOLA: And
4 Cutler Ridge said we're going to
5 incorporate so we don't have humongous
6 buildings in our area, and this is exactly
7 what they're doing.

8 MR. GIBBS: No, no, we're talking
9 about annexation into a community that the
10 hallmark is limits in zoning. Not a new
11 community.

12 CHAIRPERSON ASCENCIO-SAVOLA: We'll
13 talk once they go to plat this.

14 VICE-CHAIR VALDES: Madam Chair, may
15 I ask a question of Mr. Gibbs?

16 CHAIRPERSON ASCENCIO-SAVOLA: Sure.

17 VICE-CHAIR VALDES: My same question
18 I asked Mr. Proctor. On paper they are
19 EU-1, but aren't a fair number of those
20 surrounding properties nonconforming
21 EU-1's, because either they were
22 grandfathered because of when they were
23 platted, or because they've been given
24 variances over the years?

25 MR. GIBBS: Oh, absolutely, but the

1 point still is that you have EU-1 zoning
2 on it. There are requirements for EU-1
3 zoning. And one of the things in the EU-1
4 zoning is not just about -- it's about the
5 lot size, maybe being an acre, but it's
6 the idea of this is what we have. It's
7 legally nonconforming, don't split it even
8 more. You're not going to make it
9 worse -- what you are going to do by doing
10 this is make it worse. You are changing
11 the character.

12 If the character of the neighborhood
13 right now is EU-1, even grandfathered in,
14 by allowing these nonconforming lots or
15 these lots that are a little bit bigger to
16 be split up, you are still doubling what
17 is there now. And that's the problem that
18 people are having. People are concerned
19 about that. Again, you want to change the
20 character, you want to change this to what
21 you think it should be, then make it all
22 EU-S, make it all EU-M, make it all RU-1,
23 but don't sit there and pretend that,
24 okay, you know what, this is all right,
25 what we're doing is all right. Because

1 it's not good planning.

2 If you want to do it right, you
3 change the zoning. You don't sit there
4 and you don't make excuses, and you
5 don't -- excuse me, not excuses, you don't
6 make changes to each separate piece of
7 property, because somebody comes to you
8 and tells you, you know, I want to do it
9 this way. And then someone next week
10 comes and tells you, I want to do it
11 another way. And when you say yes to
12 every single other person that way, what
13 you get is piecemeal planning. It's not
14 good planning. It's not good zoning.

15 So what I'm saying is, you've got a
16 professional staff. These are the people
17 who are paid to make professional
18 recommendations. Their recommendation to
19 you is for denial for those reasons. And
20 so what I'm saying to you is, listen to
21 your professional staff, because even
22 though there are many of those lots, as
23 you've said out there, your staff is
24 saying -- what you're doing is you're
25 legitimizing, making it even worse, making

1 even more non-conformities out there. And
2 I don't know if that's good planning. I
3 don't think it's good planning. Your
4 Planning Department certainly hasn't
5 recommended it. They don't think it is.

6 VICE-CHAIR VALDES: But my point is,
7 where the nonconforming -- where the
8 exception swallows up the rule, because
9 you have more nonconforming EU-1 lots than
10 you have conforming EU-1 lots, whether
11 it's right or wrong, it's reality. I
12 can't change it.

13 MR. GIBBS: Then rezone the property
14 then. Then step up to the plate, talk to
15 the people who live there, and say, is
16 this what you want?

17 VICE-CHAIR VALDES: I understand
18 that, but with the exception of your
19 client, I don't see anybody else here
20 complaining.

21 MR. GIBBS: Well, and you know what,
22 given the time of year --

23 VICE-CHAIR VALDES: In all fairness,
24 in all fairness, you're right.

25 MR. GIBBS: That's right. But if you

1 make decisions based on that, and the
2 courts have said you can't make decisions
3 based on that. The courts say --

4 VICE-CHAIR VALDES: We don't.

5 MR. GIBBS: -- your decisions cannot
6 be based on the number of people in the
7 audience at 10 o'clock in the evening at
8 the last item on the agenda. The courts
9 say you don't make decisions based on
10 that. You make it based on competent and
11 substantial evidence. Your professional
12 planner's recommendation. That's what the
13 courts say you make your decisions on. So
14 the fact that my client lives on 80th
15 Street is immaterial. My client got
16 notice. The fact that these are all a lot
17 of nonconforming, it's not the issue. The
18 issue is, does it meet the requirements in
19 your code.

20 And Mr. Proctor --

21 VICE-CHAIR VALDES: I'm not saying it
22 is the issue. You're the one who said the
23 neighborhood doesn't want it.

24 MR. GIBBS: No, no, no, I didn't say
25 that. What I said was, I said, if you

1 want to really deal with this the correct
2 way, you go back and you go to the
3 neighborhood. You have a neighborhood
4 charrette, and you find out where the
5 neighborhood stands before you do this.
6 But what you're doing now is bit by bit,
7 you are changing the character of this
8 neighborhood.

9 And Mr. Proctor is absolutely right,
10 this isn't the beginning of it, but
11 somewhere someone has got to say stop.
12 This has got to end, because you all
13 know -- you see this in every neighborhood
14 you all deal with. This happens all the
15 time. Bit by bit, neighborhoods get
16 nibbled away at, and this neighborhood is
17 a great example.

18 So what you're saying is, it's been
19 nibbled away so much, throw up our hands,
20 give him his variance, and we all go home.
21 It's not good planning. Your professional
22 planners have told you that. I'm just
23 asking you to take their recommendation to
24 heart, and take their recommendation and
25 deny it. That's our point.

1 BOARD MEMBER LEVINSON: Madam Chair,
2 can we call the question?

3 CHAIRPERSON ASCENCIO-SAVOLA: Call
4 the question.

5 VICE-CHAIR VALDES: I don't think
6 Mr. Proctor was finished. I interrupted
7 him.

8 MR. PROCTOR: I'll try to wrap it up
9 quickly, if I can. I'll try.

10 Rezoning the whole area. Let's get
11 real here. If the County or if this
12 Community Zoning Board wants to propose a
13 charrette just like the charrette you just
14 had, and if you want to rezone this whole
15 area, you'll have to have your public
16 hearing at the American Airlines Arena.
17 Why? Because in many cases, that would
18 not be compatible with the area.

19 Rezoning to half acre or less in the
20 area of Mr. Gibbs' client might not be
21 compatible. There's a poor fellow here.
22 It looks like he has a big compound with a
23 tennis court. He's got three houses next
24 to him. If you had an application
25 tomorrow to create those three houses, you

1 would turn it down, and you should turn it
2 down. We don't have that situation here.

3 And, you know, what Mr. Gibbs, who
4 was very eloquent, leaves out of the
5 equation is the master plan. You have to
6 comply with the master plan. We have some
7 very real issues here in the community in
8 terms of where we're going to have growth.
9 I've had the good or bad fortune in
10 appearing in places like Palmetto Bay and
11 Pinecrest, and my attitude about that is
12 you do it one lot at a time, or where it's
13 compatible, you do it two or three lots at
14 a time. This is your opportunity to do it
15 one lot at a time. And if you don't do
16 it, you're not in compliance with your
17 master plan. You're not recognizing the
18 finite amount of land that we have as a
19 community, and you're not recognizing the
20 compatibility of this application.

21 VICE-CHAIR VALDES: Madam Chair, I
22 have one question of Mr. Proctor.

23 MR. PROCTOR: Yes, sir.

24 VICE-CHAIR VALDES: When the property
25 to the north came in front of us, I think,

1 in 2004 or 2005, what was staff's
2 recommendation?

3 CHAIRPERSON ASCENCIO-SAVOLA: In the
4 back, right?

5 VICE-CHAIR VALDES: Yes, the property
6 to the north.

7 MR. PROCTOR: I don't know.

8 CHAIRPERSON ASCENCIO-SAVOLA: The one
9 in blue.

10 MR. VITAL: It was denial of the
11 zoning change, and approval of the
12 subdivision.

13 VICE-CHAIR VALDES: In other words --
14 that's why I was asking. My recollection
15 is it was denial of the zoning change, but
16 approval of the variances to permit the
17 subdivision. That was my recollection
18 when I did the research this afternoon.
19 Am I correct?

20 MR. VITAL: That is correct.

21 VICE-CHAIR VALDES: So why is this
22 application different if you all were in
23 favor of it back in 2005, the variances?

24 MR. VITAL: Like I said before, the
25 100 feet of frontage.

1 VICE-CHAIR VALDES: Is that the only
2 basis?

3 MR. VITAL: There is no similar
4 approvals in the whole immediate area.

5 BOARD MEMBER BRODEUR: This is a
6 prime piece of property that people take
7 pride in. This is my district. This is a
8 disgrace. I mean -- Jerry?

9 MR. PROCTOR: Yes, ma'am.

10 BOARD MEMBER BRODEUR: Is this not
11 one of our prime pieces of property, yes
12 or no, that street, Ponce De Leon Road?

13 MR. PROCTOR: It's one of your -- I
14 didn't hear you.

15 BOARD MEMBER BRODEUR: Isn't that one
16 of our most prime pieces of land?

17 MR. PROCTOR: Absolutely.

18 BOARD MEMBER BRODEUR: That whole
19 street?

20 MR. PROCTOR: That's a beautiful
21 street.

22 BOARD MEMBER BRODEUR: That's a
23 beautiful street, Number 1.

24 Number 2, isn't that the pride in
25 that area having some of the finest

1 families living on it and in it? You
2 don't know them.

3 MR. PROCTOR: I don't know a lot of
4 the families.

5 BOARD MEMBER BRODEUR: I do.

6 MR. PROCTOR: I'm sure they're fine
7 families, though.

8 BOARD MEMBER BRODEUR: I do. I do.

9 MR. PROCTOR: I know one family
10 that's very fine.

11 BOARD MEMBER BRODEUR: Let me just
12 say this.

13 MR. PROCTOR: Okay.

14 BOARD MEMBER BRODEUR: Having been to
15 a lot of meetings of this area of the
16 Ponce -- this is part of the Ponce Davis
17 Association that wants to be annexed.
18 These people are horrified by the Dade
19 County Master Plan of wanting to make spot
20 zoning. These people want to go into
21 Coral Gables, lock, stock and barrel.
22 They do not want -- you don't need a
23 charrette.

24 I'll tell you what they want, because
25 I've heard it from so many of them. They

1 are horrified by spot zoning in this area,
2 which has been done by certain variances
3 going through. But I think this time
4 they've got it right. And I support the
5 County on looking the way they've looked
6 at it this way. I think they've got it
7 right this time.

8 MR. PROCTOR: Ms. Brodeur, just a
9 couple points. For whatever it's worth,
10 this immediate area is not at the moment
11 in any annexation area. The High Pines
12 area certainly is, and the area that they
13 call Ponce Davis, which is further to the
14 south is. And I've checked on this. My
15 clients actually asked me. They're not
16 active in any of the annexation. They
17 said, "Is this area going to be annexed?"
18 This area right now, who knows, 15 years
19 from now. It's not part of the annexation
20 area.

21 My last point, respectfully to you,
22 at the end of the day when we talk about
23 Ponce De Leon Road, you're going to have
24 one home that either has to comply with
25 the setbacks or appear in front of this

1 Board again on Ponce. That's exactly what
2 you have today. This home that's there
3 now is two stories. It's been there since
4 1953. It's a two-story home. And what
5 you're going to have here along Ponce with
6 this application is one residence going
7 forward.

8 CHAIRPERSON ASCENCIO-SAVOLA: And not
9 only that. You know, to me, when I drive,
10 I drive -- I looked at the address. I
11 didn't read the application. I just
12 wanted -- because I was in the area, I
13 said let me just run there and make sure
14 that I look at the lot before I read my
15 application. And I'm looking and I'm
16 going, wait a minute, these people already
17 have two homes in here. What's the
18 difference with what we're going to do,
19 you know, with what they're asking? After
20 I read it, I couldn't understand. When I
21 went and drove around, what is it -- I
22 thought that they were only asking for the
23 change of the zoning, because they already
24 had the houses in the back. So I --

25 BOARD MEMBER BRODEUR: This is giving

1 them a blank check, Madam Chair. We have
2 no way of knowing what could -- as Mr.
3 Gibbs said --

4 CHAIRPERSON ASCENCIO-SAVOLA: I just
5 don't see any difference with what they
6 have now.

7 BOARD MEMBER BRODEUR: It's lot
8 splitting. We didn't allow Mr. Bacardi to
9 lot split. Remember Mr. Bacardi?

10 CHAIRPERSON ASCENCIO-SAVOLA: It was
11 totally different.

12 BOARD MEMBER BRODEUR: I don't
13 think it --

14 CHAIRPERSON ASCENCIO-SAVOLA: It was
15 a lot that he wanted three homes in it,
16 not two.

17 BOARD MEMBER BRODEUR: Whether it was
18 three or two, we didn't allow Mr. Bacardi
19 to lot split, and we've been very
20 consistent in this area about lot
21 splitting. And I don't think that it's a
22 good idea to lot split on a prominent
23 street. This is one of the prime streets,
24 and the people care a great deal.

25 I know the lady has a problem, and I

1 sympathize with her tremendously with her
2 problem, but you have to look at this --
3 if you look at all the letters, they all
4 say the same thing, the letters that they
5 have prepared for you.

6 CHAIRPERSON ASCENCIO-SAVOLA: And
7 that doesn't matter at the end of the day.

8 BOARD MEMBER BRODEUR: They all say
9 the same thing.

10 CHAIRPERSON ASCENCIO-SAVOLA: And
11 even her problems did not matter. To me
12 it makes no difference what her problems
13 are. I'm just looking at the application
14 for what it's worth, which is, it already
15 has two homes in it. And everything
16 around it, if you look at it -- because
17 when you drive, the houses in the front
18 next-door to them, they already have homes
19 in the back. So, I don't know, if this is
20 not compatible, I don't know what is.

21 VICE-CHAIR VALDES: Madam Chair, I
22 have a question for Ms. Brodeur. Would
23 you feel more comfortable with a site
24 plan, or is --

25 BOARD MEMBER BRODEUR: We have, A, no

1 site plan, and, two, no plans. So, if we
2 take away the problem of the estate
3 planning, and look at it from just the
4 standpoint of the real estate aspect of
5 it, we're breaking our own rules, which we
6 usually want a site plan, and we want to
7 see what they want to put on it. So this
8 is something that you have to be concerned
9 with, especially in this location.

10 VICE-CHAIR VALDES: No, the
11 reason why I was asking, Ms. Brodeur --

12 BOARD MEMBER BRODEUR: It's a blank
13 check.

14 VICE-CHAIR VALDES: -- was precisely
15 for that reason. I mean, we've told
16 people, you know, come back with a site
17 plan, and we'll consider it. I mean, I
18 don't want to make them go through the
19 expense of having a site plan and then we
20 shoot it --

21 CHAIRPERSON ASCENCIO-SAVOLA: And
22 then we vote for a denial.

23 VICE-CHAIR VALDES: And then we deny
24 it, you know.

25 CHAIRPERSON ASCENCIO-SAVOLA: Right.

1 BOARD MEMBER LEVINSON: There is
2 also -- Madam Chair, if I might. There's
3 also the height question that we
4 constantly concern ourselves with.

5 BOARD MEMBER BRODEUR: The height.
6 We just don't know enough about this
7 property to give them a blank check.
8 That's my final word on this.

9 VICE-CHAIR VALDES: Madam Chair, may
10 I ask a question to Mr. Proctor even
11 though the public hearing was closed?

12 CHAIRPERSON ASCENCIO-SAVOLA: All
13 right.

14 VICE-CHAIR VALDES: Mr. Proctor,
15 would you be -- would your client be
16 amenable to a deferral to coming back with
17 an actual site plan?

18 MR. PROCTOR: We'd prefer that you'd
19 act, but if you --

20 VICE-CHAIR VALDES: Ms. Brodeur is
21 right. I mean, we try to be consistent,
22 and we have not granted requests without a
23 site plan.

24 MR. PROCTOR: If it's --

25 VICE-CHAIR VALDES: Now, I realize it

1 is an expense to the applicant. Also I
2 think you could appreciate the concerns
3 that certain members of the community
4 council has expressed with regards to
5 basically giving a blank check.

6 MS. WOLIN: May I just ask one
7 question?

8 MR. PROCTOR: Okay.

9 MS. WOLIN: Does that mean proposing
10 what would be built after eventually I
11 sold the property?

12 BOARD MEMBER BRODEUR: Yes.

13 MS. WOLIN: To restrict those people
14 whoever came in and built it?

15 BOARD MEMBER BRODEUR: Yes.

16 MS. WOLIN: Or came in and bought it?

17 BOARD MEMBER BRODEUR: Not to
18 restrict --

19 MS. WOLIN: Okay. Because I plan on
20 doing nothing with the property.

21 BOARD MEMBER BRODEUR: I understand
22 you plan on doing nothing.

23 MS. WOLIN: Okay, so I just wanted to
24 clarify it for myself.

25 BOARD MEMBER BRODEUR: Ms. Wolin?

1 MS. WOLIN: Yes.

2 BOARD MEMBER BRODEUR: The problem is
3 the future. Our Board has to look ahead.

4 MS. WOLIN: Correct.

5 BOARD MEMBER BRODEUR: We cannot just
6 look at today. And that's why we're
7 hired. This is why people vote for us.
8 People vote for us so that we have a
9 vision of the community, and we use our
10 judgement of what the community should be
11 like according to the law, according to
12 what is permissible, and according to our
13 experts. And we have had a very good
14 evaluation on this property, which I think
15 we should respect.

16 MS. WOLIN: Uh-huh.

17 BOARD MEMBER BRODEUR: And I feel for
18 you personally, because I know what it is
19 to pay taxes. We only make \$100 a year.

20 VICE-CHAIR VALDES: Hey, we haven't
21 gotten our \$100 this year.

22 BOARD MEMBER BRODEUR: And we haven't
23 even gotten our \$100 this year. So when
24 it comes to money, it's not --

25 CHAIRPERSON ASCENCIO-SAVOLA: We

1 already went through that --

2 MS. WOLIN: It's not just the taxes,
3 it's the elder care and everything.

4 BOARD MEMBER BRODEUR: I understand.

5 MS. WOLIN: But at any rate, you
6 answered my question. Thank you.

7 CHAIRPERSON ASCENCIO-SAVOLA: All
8 right, do I have a motion on this
9 application?

10 BOARD MEMBER BRODEUR: I make a
11 motion that the application be denied.

12 CHAIRPERSON ASCENCIO-SAVOLA: Do I
13 hear a second?

14 BOARD MEMBER LEVINSON: Second.

15 BOARD MEMBER BRODEUR: Without
16 prejudice.

17 MR. SALVAT: It's --

18 VICE-CHAIR VALDES: Madam Chair, I
19 have a question.

20 MR. SALVAT: I'm sorry, did Mr.
21 Levinson second that?

22 BOARD MEMBER LEVINSON: Yes, second.

23 VICE-CHAIR VALDES: To the County
24 Attorney, can the applicant request a
25 deferral before we vote on the motion?

1 BOARD MEMBER BRODEUR: No.

2 MR. WILLIAMS: It's up to the Chair
3 whether to hear that.

4 VICE-CHAIR VALDES: Okay, thank you.

5 BOARD MEMBER BRODEUR: You asked for
6 a motion.

7 CHAIRPERSON ASCENCIO-SAVOLA: What is
8 it that you want?

9 VICE-CHAIR VALDES: Can the applicant
10 request a deferral before we vote on the
11 motion?

12 BOARD MEMBER BRODEUR: There's a
13 motion on the floor, and on Robert's Rules
14 of Order, you cannot -- you have to
15 handle --

16 CHAIRPERSON ASCENCIO-SAVOLA: Wait a
17 minute, Ms. Brodeur. Hold on. Let's hear
18 from --

19 MR. SANCHEZ: We're not governed by
20 Robert's Rules of Order.

21 BOARD MEMBER BRODEUR: All right, but
22 there is a motion on the floor.

23 MR. SANCHEZ: There's a general --
24 it's up to the Chair, and if somebody
25 doesn't like what the Chair decides, you

1 can call for a vote on whether you should
2 hear that or not.

3 CHAIRPERSON ASCENCIO-SAVOLA: A vote
4 for what?

5 MR. SANCHEZ: A vote on whether or
6 not to override the Chair.

7 CHAIRPERSON ASCENCIO-SAVOLA: Do you
8 want a deferral? I mean, if I were you, I
9 don't want a deferral.

10 MR. PROCTOR: Madam Chair, we'd like
11 to go forward, but if there is a wish to
12 defer it -- let me be clear to the Board,
13 because you've been very patient with us.
14 We're not in a position to do a site plan
15 with floor plans and elevation drawings.
16 What we can do -- we don't know that it's
17 really necessary, because the code is
18 really your protection in that regard, and
19 the lot sizes are the protection, as we
20 said earlier. But having said that, if
21 the application is deferred, whether we
22 like it or not, we I think are prepared to
23 at least look at building envelopes and
24 things which was actually what was done to
25 the property to the north -- look at

1 building envelopes and building sizes and
2 that sort of thing. Not a full site plan,
3 which for reasons that I think you can
4 understand, given our family situation
5 here with the applicant, we think the code
6 itself offers the protection that you're
7 looking for. But if the application is
8 deferred, again, whether we like it or
9 not, we would entertain something that we
10 would bring back to add to our application
11 in that regard.

12 CHAIRPERSON ASCENCIO-SAVOLA: And,
13 Mr. Gibbs, just to be clear, you object
14 regardless, because you don't want just
15 the property to be split, correct? Is
16 that what your --

17 MR. GIBBS: Yes, that's been our
18 position throughout, yes.

19 CHAIRPERSON ASCENCIO-SAVOLA: Okay.

20 BOARD MEMBER LEVINSON: Now can I
21 call the question?

22 CHAIRPERSON ASCENCIO-SAVOLA: You
23 know, I'll just go ahead. Let's leave it
24 the way it is, and let's call it a vote.

25 MR. SALVAT: Motion for denial

1 without prejudice.

2 MR. SALVAT: Mr. Zack?

3 BOARD MEMBER ZACK: Yes.

4 MR. SALVAT: Ms. Brodeur?

5 BOARD MEMBER BRODEUR: Yes.

6 BOARD MEMBER LEVINSON: Mr. Levinson?

7 BOARD MEMBER LEVINSON: Yes.

8 MR. SALVAT: Mr. Santana?

9 BOARD MEMBER SANTANA: Yes.

10 MR. SALVAT: Vice Chairman Valdes?

11 VICE-CHAIR VALDES: Yes.

12 MR. SALVAT: Mr. Wilcosky?

13 BOARD MEMBER WILCOSKY: Yes.

14 MR. SALVAT: Madam Chair Savola?

15 CHAIRPERSON ASCENCIO-SAVOLA: Yes.

16 MR. SALVAT: Motion passes 7-0.

17 MR. PROCTOR: Thank you.

18 (Thereupon, the proceeding was
19 concluded.)
20
21
22
23
24
25

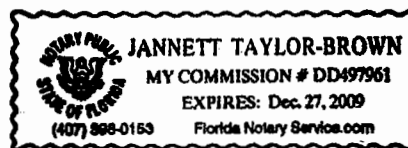
CERTIFICATE OF OATH

STATE OF FLORIDA)
 SS)
COUNTY OF MIAMI-DADE)

I, Jannett Taylor-Brown, FPR, Florida
Professional Reporter and Notary Public in the
State of Florida, certify that all witnesses
personally appeared before me on this 3rd day
of December 2007, and were duly sworn.



JANNETT TAYLOR-BROWN, FPR
FLORIDA PROFESSIONAL REPORTER
Notary Public, State of Florida
My Commission # DD497961
My Commission Expires: 12-27-2009



CERTIFICATE OF REPORTER

STATE OF FLORIDA)
 SS:
COUNTY OF MIAMI-DADE)

I, Jannett Taylor-Brown, FPR, Florida Professional Reporter and Notary Public in the State of Florida, do hereby certify that a meeting was held before Community Zoning Appeals Board 12 on December 3, 2007; that Item Number 07-172, ROGER & DOROTHY WOLIN was heard, and that the foregoing pages, numbered 1 through 79, inclusive, constitute a true and correct transcript of my stenographic notes.

WITNESS my hand in the City of Miami, County of Miami-Dade, State of Florida, this 13th day of January 2008.



JANNETT TAYLOR-BROWN, FPR
FLORIDA PROFESSIONAL REPORTER

2. R & E AT PALM VISTA II, INC.
(Applicant)

08-3-CC-1 (07-263)
BCC /District 8
Hearing Date: 3/20/08

Property Owner (if different from applicant) **Same.**

Is there an option to purchase ☐ /lease ☐ the property predicated on the approval of the zoning request? Yes ☐ No ☒

Disclosure of interest form attached? Yes ☒ No ☐

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
2003	Jose A. Costa, Jr. Trustee	Zone change from AU to RU-1M(a).	CZAB-15	Approved

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 15
MOTION SLIP

APPLICANT'S NAME: R & E AT PALM VISTA II, INC.

4

REPRESENTATIVE: **RAFAEL ROSADO**

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
08-1-CZ15-4 (07-263)	JANUARY 22, 2008	CZAB15		08

REQ: DEL Declaration of Restrictions in ORB 21680, Pages 2736-2740

REC: APPROVE PER (A)(7) & DWOP PER (A)(17)

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S): _____
<input checked="" type="checkbox"/> DEFER:	<input type="checkbox"/> INDEFINITELY	<input checked="" type="checkbox"/> TO: <u>FEB 19, 2008</u> <input type="checkbox"/> W/LEAVE TO AMEND
<input type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input type="checkbox"/> WITHOUT PREJUDICE
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS	
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT <input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS	
<input checked="" type="checkbox"/> BOARD WANTS TO SEE PLAN APPROVED VIA ASPR		

TITLE	M/S	NAME	YES	NO	ABSENT
MR.		Paul J. MORROW (C.A.)	X		
MS.	S	Diane RICHARDSON	X		
MR.		Bobby D. STEWART			X
MADAME VICE-CHAIR		Gale L. WIMBLEY	X		
MADAME CHAIR	M	Patricia FORBES	X		
VOTE:			4	0	

EXHIBITS: ☐ YES ☒ NO

COUNTY ATTORNEY: RON BERNSTEIN

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: R & E at Palm Vista II, Inc.

PH: Z07-263 (08-3-CC-1)

SECTION: 23-56-39

DATE: March 20, 2008

COMMISSION DISTRICT: 8

ITEM NO.: 2

A. INTRODUCTION

o **REQUEST:**

DELETION of a Declaration of Restrictions recorded in Official Record Book 21680, Pages 2736-2740.

The purpose of this request is to allow the applicant to delete a Declaration of Restrictions tying the development of the property to a site plan and a specific number of dwelling units in order to allow the applicant to build in accordance with the Princeton Community Urban Center (PCUC) District zoning regulations.

Upon a demonstration that the applicable standards have been satisfied, approval of the request may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing).

o **SUMMARY OF REQUEST:**

This application will allow the deletion of an agreement that restricts the development of the property to a previously approved residential development in order to allow the applicant to build in compliance with the Princeton Community Urban Center (PCUC) District zoning regulations.

o **LOCATION:**

The northeast corner of S.W. 129 Avenue and S.W. 248 Street and lying east of SW 129 Avenue, on both sides of SW 246 Terrace, Miami-Dade County, Florida.

o **SIZE:** 4.7 Acres

o **IMPACT:**

Approval of this application will allow the applicant to develop the subject property in accordance with the regulations of the Princeton Community Urban Center District which will allow additional residential units to be developed on the site which will impact traffic and could bring additional students to the area.

B. ZONING HEARINGS HISTORY:

In 2003, the Zoning Appeals Board granted, pursuant to Resolution #CZAB15-16-03, a zone change from AU, Agricultural District, to RU-1M(a), Modified Single-Family District,

subject to the acceptance of a proffered covenant. Subsequently, in November 2005, pursuant to Resolution #Z-26-05, the subject property was a part of a section of land that was approved for a district boundary change from multiple zones to PCUC (Princeton Community Urban Center) District.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Community Urban Center**.

Urban Centers

Diversified Urban Centers are encouraged to become hubs for future urban development intensification in Miami-Dade County, around which a more compact and efficient urban structure will evolve. These Urban Centers are intended to be moderate- to high-intensity design-unified areas that will contain a concentration of different urban functions integrated both horizontally and vertically. Three scales of centers are planned: Regional, the largest, notably the Downtown Miami central business district; Metropolitan Centers such as the evolving Dadeland area; and **Community Centers** which will serve localized areas. Such centers shall be characterized by physical cohesiveness, direct accessibility by mass transit service, and high quality urban design. Regional and Metropolitan Centers, as described below, should also have convenient, preferably direct, connections to a nearby expressway or major roadways to ensure a high level of countywide accessibility. The locations of Urban Centers and the mix and configuration of land uses within them are designed to encourage convenient alternatives to travel by automobile, to provide more efficient land use than recent suburban development forms, and to create identifiable "town centers" for Miami-Dade's diverse communities. These centers shall be designed to create an identity and a distinctive sense of place through unity of design and distinctively urban architectural character of new developments within them. The core of the centers should contain business, employment, civic, and/or high-or moderate-density residential uses, with a variety of moderate-density housing types within walking distance from the centers. Both large and small businesses are encouraged in these centers, but the Community Centers shall contain primarily moderate and smaller sized businesses which serve, and draw from, the nearby community. Design of developments and roadways within the centers will emphasize pedestrian activity, safety and comfort, as well as vehicular movement. Transit and pedestrian mobility will be increased and area-wide traffic will be reduced in several ways: proximity of housing and retail uses will allow residents to walk or bike for some daily trips; provision of both jobs, personal services and retailing within walking distance of transit will encourage transit use for commuting; and conveniently located retail areas will accommodate necessary shopping during the morning or evening commute or lunch hour. Urban Centers are identified on the LUP map by circular symbols noting the three scales of planned centers. The Plan map indicates both emerging and proposed centers. The designation of an area as an urban center indicates that governmental agencies encourage and support such development. The County will give special emphasis to providing a high level of public mass transit service to all planned Urban Centers. Given the high degree of accessibility as well as other urban services, the provisions of this section encourage the intensification of development at these centers over time. In addition to the Urban Center locations depicted on the Land Use Plan Map, all future

rapid transit station sites and their surroundings shall be, at a minimum, developed in accordance with the Community Center policies established below. Following are policies for Development of Urban Centers designated on the Land Use Plan (LUP) map. Where the provisions of this section authorize land uses or development intensities or densities different or greater than the underlying land use designation on the LUP map, the more liberal provisions of this section shall govern. All development and redevelopment in Urban Centers shall conform with the guidelines provided below.

Uses and Activities.

Regional and Metropolitan Centers shall accommodate a concentration and variety of uses and activities which will attract large numbers of both residents and visitors while Community-scale Urban Centers will be planned and designed to serve a more localized community. Uses in Urban Centers may include retail trade, business, professional and financial services, restaurants, hotels, institutional, recreational, cultural and entertainment uses, moderate to high density residential uses, and well planned public spaces. Incorporation of residential uses is encouraged, and may be approved, in all centers, except where incompatible with airport or heavy industrial activities. Residential uses may be required in areas of the County and along rapid transit lines where there exists much more commercial development than residential development, and creation of employment opportunities will be emphasized in areas of the County and along rapid transit lines where there is much more residential development than employment opportunity. Emphasis in design and development of all centers and all of their individual components shall be to create active pedestrian environments through high-quality design of public spaces as well as private buildings; human scale appointments, activities and amenities at street level; and connectivity of places through creation of a system of pedestrian linkages. Existing public water bodies shall also be incorporated by design into the public spaces within the center.

Radius.

The area developed as an Urban Center shall extend to a one-mile radius around the core or central transit station of a Regional Urban Center designated on the LUP map. Designated Metropolitan Urban Centers shall extend not less than one-quarter mile walking distance from the core of the center or central transit stop(s) and may extend up to one-half mile from such core or transit stops along major roads and pedestrian linkages. Community Centers shall have a radius of 700 to 1,800 feet but may be extended to a radius of one-half mile where recommended in a professional area plan for the center, consistent with the guidelines herein, which plan is approved by the Board of County Commissioners after an advertised public hearing. Urban Center development shall not extend beyond the UDB.

Density and Intensity

The range of average floor area ratios (FARs) and the maximum allowed residential densities of development within the Regional, Metropolitan and Community Urban Centers are shown in the table below.

Densities	Average Floor Area Ratios		Max.
	(FAR)	Dwellings per Gross Acre	
Regional Activity Centers	greater than 4.0 in the core not less than 2.0 in the edge		500
Metropolitan Urban Centers	greater than 3.0 in the core not less than 0.75 in the edge		250
Community Urban Centers	greater than 1.5 in the core not less than 0.5 in the edge		125

In addition, the densities and intensities of developments located within designated Community Urban Centers and around rail rapid transit stations should not be lower than those provided in Policy LU-7F. Height of buildings at the edge of Metropolitan Urban Centers adjoining stable residential neighborhoods should taper to a height no more than 2 stories higher than the adjacent residences, and one story higher at the edge of Community Urban Centers. However, where the adjacent area is undergoing transition, heights at the edge of the Center may be based on adopted comprehensive plans and zoning of the surrounding area. Densities of residential uses shall be authorized as necessary for residential or mixed-use developments in Urban Centers to conform to these intensity and height policies.

As noted previously in this section, urban centers are encouraged to intensify incrementally over time. Accordingly, in planned future rapid transit corridors, these intensities may be implemented in phases as necessary to conform with provisions of the Transportation Element.

Gross Residential Density

In order to efficiently use, and not prematurely deplete, the finite development capacity that exists inside the Plan's Urban Development Boundary (UDB), land should not be developed at densities lower than the minimum established for each category. Exceptions to the minimums may exist outside transportation or transit corridors where such an exception would serve the interest of compatibility or protect the public health, or safety, or protect important resources. For purposes of this paragraph, transportation and transit corridors are land areas located within 660 feet of planned Major Roadways identified on the LUP map, and within one-quarter mile from existing rail transit stations, express busway stops, future transit corridors and planned transit centers identified in the CDMP.

Uses and Zoning Not Specifically Depicted on the LUP Map.

Within each map category numerous land uses, zoning classifications and housing types may occur. Many existing uses and zoning classifications are not specifically depicted on the Plan map. This is due largely to the scale and appropriate specificity of the countywide LUP map, graphic limitations, and provisions for a variety of uses to occur in

each LUP map category. All existing lawful uses and zoning are deemed to be consistent with this Plan.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

PCUC/RM; 12 to 36 dua/ R; 6 to 18 dua;
 nursery

Low Density Residential, 2.5 to 6 dua
 Community Urban Center

Surrounding Properties:

NORTH: PCUC/R; 6 to 18 dua; nursery

Low Density Residential, 2.5 to 6 dua
 Community Urban Center

SOUTH: PCUC/R; 6 to 18 dua;
 single-family Residences

Low Density Residential, 2.5 to 6 dua
 Community Urban Center

EAST: PCUC/ RM; 12 to 36 dua;
 nursery, vacant land

Low Density Residential, 2.5 to 6 dua
 Community Urban Center

WEST: PCUC/ R; 6 to 18 dua,;
 MO; 12 to 36 dua; nursery,
 service station

Low Density Residential, 2.5 to 6 dua
 Community Urban Center

The subject parcel is located on the northeast corner of S.W. 129 Avenue and S.W. 248 Street. The area where the subject property lies is within the Princeton Community Urban Center, which is currently being developed as a compact, mixed-use community.

E. SITE AND BUILDINGS:

Site Plan Review:

(No site plan submitted)

Scale/Utilization of Site:

Acceptable

Location of Buildings:

N/A

Compatibility:

Acceptable

Landscape Treatment:

N/A

Open Space:

N/A

Buffering:

N/A

Access:

Acceptable

Parking Layout/Circulation:

N/A

Visibility/Visual Screening:

N/A

Energy Considerations:

N/A

Roof Installations:

N/A

Service Areas:

N/A

Signage:

N/A

Urban Design:

N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

33-311(A)(7) Generalized Modification Standards. The Board shall hear applications to modify or **eliminate** any condition or part thereof which has been imposed by any final decision adopted by resolution; provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned.

Section 33-311(A)(17) Modification or Elimination of Conditions and Covenants After Public Hearing. The Community Zoning Appeals Board shall approve applications to modify or eliminate any condition or part thereof which has been imposed by any zoning action, and to modify or eliminate any restrictive covenants, or parts thereof, accepted at public hearing, upon demonstration at public hearing that the requirements of at least one of the paragraphs under this section has been met. Upon demonstration that such requirements have been met, an application may be approved as to a portion of the property encumbered by the condition or the restrictive covenant where the condition or restrictive covenant is capable of being applied separately and in full force as to the remaining portion of the property that is not a part of the application, and both the application portion and the remaining portion of the property will be in compliance with all other applicable requirements of prior zoning actions and of this chapter.

G. NEIGHBORHOOD SERVICES:

DERM	No objection*
Public Works	No objection
Parks	No objection
MDT	No objection
Fire Rescue	No objection
Police	No objection
Schools	No objection

*Subject to the conditions indicated in their memorandum.

H. ANALYSIS:

Section 33-314(C)(15) specifies that applications to modify or delete declarations of restrictive covenants recorded prior to July 27, 2005, encumbering property wholly located within any Urban Center zoning district where and to the extent that modification or elimination of the declaration of restrictive covenant or part thereof is necessary to allow development conforming in all respects to the applicable Urban Center District regulations, be heard by the Board of County Commissioners (BCC).

The subject property is located on the northeast corner of S.W. 129 Avenue and S.W. 248 Street, approximately one (1) mile east of and within the Urban Development Boundary (UDB) Line, in an area which is currently being developed as a compact, mixed-use community. The applicant is seeking to delete an agreement restricting the development of the property to a previously approved site plan for a 28-unit residential development in order to permit the development of the property in accordance with the Princeton Community Urban Center District (PCUC) zoning regulations.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. The **Public Works Department** has **no objections** to this application and indicates that no new additional daily peak hour vehicle trips would be generated, therefore no vehicle trips have been assigned. The Miami-Dade Fire Rescue Department (**MDFR**) **does not object** to this application and they indicate that the estimated response time is **7:20 minutes**.

The subject property lies within a **Community Urban Center** as designated in the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). Approval of this application will allow the applicant to develop the subject property in accordance with the regulations of the Princeton Community Urban Center (PCUC) District. Urban Centers are hubs for future development intensification in Miami-Dade County, around which a more compact and efficient urban structure will evolve. Urban Centers are intended to be moderate- to high-intensity, design-unified areas that will contain a concentration of different urban functions integrated both horizontally and vertically. These centers are designed to create an identity and a distinctive sense of place through unity of design and distinctive urban architectural character. Emphasis in design and development of these centers and all of their individual components shall be to create active pedestrian environments through high-quality design of public spaces as well as private buildings; human scaled appointments, activities and amenities at street level; and connectivity of places through creation of a system of pedestrian linkages. Staff supports this application as the applicant intends to develop the subject property in accordance with the regulations. The regulations, which provide development parameters for the community urban center, have been approved by the Board of County Commissioners and are enumerated in Ordinance No. 05-146 under Article XXXIII (M) of the Zoning Code. The Princeton Community Urban Center District requires new development to be organized according to an interconnected network of tree-lined streets and sidewalks to improve pedestrian access to transit, jobs, and shopping; allocates open space in the form of squares, greens and/or plazas; and includes criteria shaping the way buildings front onto open spaces and streets.

The subject 4.7-acre property lies within the Center Sub-District and Edge Sub-District of the Princeton Community Urban Center (PCUC). The subject property is designated as Residential Modified (RM) and Residential (R) under the PCUC's Land Use Plan map. The RM zone allows residential development to occur within courtyard, sideyard, duplex, rowhouse, and apartment building types at a minimum of 12 units per net acre to a maximum of 36 units per net acre. The R zone allows residential development within single-family detached, courtyard, sideyard, rowhouse, urban villa and duplex dwelling types at a minimum of 6 units per net acre to a maximum of 18 units per net acre. Approval of this application will delete the agreement restricting the development of the

property to a previously approved site plan in order to enable the applicant to comply with the PCUC District zoning regulations. Said site plans depicted a 28 unit residential development. The Department of Planning and Zoning as well as other departments, have reviewed plans submitted by the applicant for compliance with the site plan review criteria provided in the PCUCD standards (Ordinance No. 05-143) as part of the Administrative Site Plan Review (ASPR) process. The Ordinance stipulates that, except for individual single-family homes and duplexes, all applications shall be reviewed as part of the Administrative Site Plan Review (ASPR) process by the following Departments of Miami-Dade County and other public entities for potential impacts on infrastructure and other services resulting from the applications: Public Works Department, Department of Environmental Resources Management (DERM), Miami-Dade Fire Rescue Department, and the Miami-Dade County School Board. In the event the application indicates impacts on services and infrastructure provided by any of the foregoing, the applicant shall meet with the affected department or entity to discuss potential mitigation of the impacts and shall submit evidence to the Department of Planning and Zoning of such discussion. The plans for this site indicate the development of this site for a 118-unit residential development, which furthers the intent of the PCUC. The site plans were reviewed by all of the above named departments pursuant to ASPR #06-016, which proposes a 92 unit multi-family development and ASPR #06-018, which proposes a 26-unit development, subject to the approval of this application.

The standards under Section 33-311(A)(17), Modification or Elimination of Conditions and Covenants After Public Hearing, provide for the approval of a zoning application which demonstrates at public hearing that the modification or elimination of conditions of a previously approved resolution or restrictive covenant complies with one of the applicable modification or elimination standards and does not contravene the enumerated public interest standards as established. However, the applicant has not submitted documentation to indicate which of the modification standards are applicable to this application. Due to the lack of information, staff is unable to properly analyze this application under said standards and, as such, this application should be denied without prejudice under Section 33-311(A)(17).

When analyzed under the Generalized Modification Standards, Section 33-311(A)(7), the proposed deletion of the agreement will not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, provoke excessive overcrowding of people, tend to provoke a nuisance, be incompatible with the area, nor be contrary to the public interest. Approval of this application will allow the applicant to develop the subject property in accordance with the regulations of the Princeton Community Urban Center District. The Ordinance provides for the allocation of development intensities within Core, Center and Edge sub-districts within the boundaries of the Urban Center as envisioned by the CDMP; requires new development to be organized according to an interconnected network of tree-lined streets and sidewalks to improve pedestrian access to transit, jobs, and shopping; allocates open space in the form of squares, greens and/or plazas; and includes criteria shaping the way buildings front onto open spaces and streets. The deletion of the restrictive covenant is necessary to allow the development of the site conforming in all respects to the PCUC zoning regulations. Based on all of the aforementioned, staff is of the opinion that the approval of this application would be **consistent** with the CDMP and **compatible** with the

surrounding area and would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, provoke excessive overcrowding of people, nor would it tend to provoke a nuisance or be incompatible with the area. Therefore, staff recommends approval of this application under Section 33-311(A)(7).

Accordingly, staff recommends approval of this application under Section 33-311(A)(7) (Generalized Modification Standards) and denial without prejudice under Section 33-311(A)(17) (Modification or Elimination of Conditions and Covenants After Public Hearing).

I. RECOMMENDATION:

Approval under Section 33-311(A)(7) (Generalized Modification Standards) and denial without prejudice under Section 33-311(A)(17) (Modification or Elimination of Conditions and Covenants After Public Hearing).

J. CONDITIONS: None.

DATE INSPECTED: 09/11/07

DATE TYPED: 11/28/07

DATE REVISED: 12/12/07, 12/19/07, 01/24/08, 02/07/08, 02/08/08, 02/21/08, 03/11/08

DATE FINALIZED: 03/11/08

SB:MTF:LVT:NC:CH



Subrata Basu, Interim Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: August 31, 2007

To: Subrata Basu, AIA, AICP, Interim Director
Department of Planning and Zoning

From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "Jose Gonzalez", written over the printed name and title.

Subject: C-15 #Z2007000263
R & E at Palm Vista II, Inc.
Northeast Corner of S.W. 120th Avenue and S.W. 248th Street
Deletion of Declaration of Restrictions Restricting a Site to 28 Single-Family Residences
(PCUC) (4.7 Acres)
23-56-39

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

DERM has no pertinent comments regarding this application since the request does not entail any environmental concern.

Enforcement History

DERM has found no open or closed enforcement record for the subject property.

Concurrency Review Summary

DERM has conducted a concurrency review for this application and has determined that the same meets all applicable Level of Service (LOS) standards for an initial development order, as specified in the adopted Comprehensive Development Master Plan for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency, subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

This memorandum shall constitute DERM's written approval, as required by the Code.

If you have any questions concerning the comments, or wish to discuss this matter further, please contact Enrique A. Cuellar at (305) 372-6764.

cc: Lynne Talleda, Zoning Evaluation - P&Z
Ron Connally, Zoning Hearings - P&Z
Franklin Gutierrez, Zoning Agenda Coordinator - P&Z

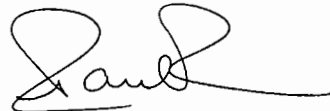
REVISION 1
PH# Z2007000263
CZAB - BCC

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: R & E AT PALM VISTA II, INC.

This Department has no objections to this application.

This application meets the traffic concurrency criteria set for an Initial Development Order; however, one or more traffic concurrency determinations will subsequently be required before development will be permitted.

A handwritten signature in black ink, appearing to read "Raul", with a long horizontal stroke extending to the right.

Raul A Pino, P.L.S.

08-FEB-08



Memorandum

Date: 14-SEP-07

To: Subrata Basu, Interim Director
Department of Planning and Zoning

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department

Subject: Z2007000263

Fire Prevention Unit:

This Memo supersedes Fire Memo dated August 20, 2007.

Fire Engineering and Water Supply Bureau has no objection to the deletion of the restrictive covenant. Development must adhere to revised site plan date stamped 9/1/06 approved by ASPR 06-016.

Service Impact/Demand:

Development for the above Z2007000263

located at LYING ON THE NORTHEAST CORNER OF S.W. 120 AVENUE & S.W. 248 STREET, MIAMI-DADE COUNTY, FLORIDA.

in Police Grid 2408 is proposed as the following:

N/A	dwelling units	N/A	square feet
residential		industrial	
N/A	square feet	N/A	square feet
Office		institutional	
N/A	square feet	N/A	square feet
Retail		nursing home/hospitals	

Based on this development information, estimated service impact is: N/A alarms-annually.

The estimated average travel time is: 7:20 minutes

Existing services:

The Fire station responding to an alarm in the proposed development will be:

Station 5, Goulds/Princeton, 13150 SW 238 Street
Rescue, BLS Engine

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:

Station 70, Coconut Palm, SW 248 Street and 114 Place

Fire Planning Additional Comments:

Not applicable to service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

R & E AT PALM VISTA II, INC.

LYING ON THE NORTHEAST
CORNER OF S.W. 129 AVENUE &
S.W. 248 STREET, & LYING EAST
OF SW 129 AVE AND ON BOTH
SIDES OF SW 246 TERR, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2007000263

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

Current case history;
CSR case # 08-00057706 was opened based on enforcement history request and inspected on 2-15-08. A warning notice was posted for a violation of Ch 19-8(a) junk and trash. A re-inspection will be conducted after 2-29-08 compliance date expires.

DISCLOSURE OF INTEREST*

If a CORPORATION owns or leases the subject property, list principal stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: B4E at Palm Vista II, INC.

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
<u>Rafael Rosado</u>	<u>50%</u>
<u>Leocadia E. Rosado</u>	<u>50%</u>
_____	_____
_____	_____

If a TRUST or ESTATE owns or leases the subject property, list the trust beneficiaries and the percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: _____

<u>NAME AND ADDRESS</u>	<u>Percentage of Interest</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If a PARTNERSHIP owns or leases the subject property, list the principals including general and limited partners. [Note: Where the partner(s) consist of another partnership(s), corporation(s), trust(s) or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

<u>NAME AND ADDRESS</u>	<u>Percentage of Ownership</u>
_____	_____
_____	_____
_____	_____
_____	_____

RECEIVED
207-263
AUG - 7 2007

TRAINING HEARINGS SECTION
MIAMI
BY: _____

If there is a **CONTRACT FOR PURCHASE**, by a Corporation, Trust or Partnership list purchasers below, including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or other similar entities, further disclosure shall be made to identify natural persons having the ultimate ownership interests].

NAME OF PURCHASER: _____

NAME, ADDRESS AND OFFICE (if applicable)

Percentage of Interest

Date of contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust.

NOTICE: For any changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

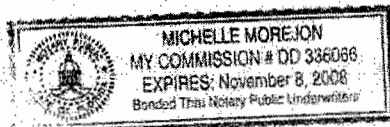
The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: [Signature]
President (Applicant) Reat Palm Vista II, Inc.

Sworn to and subscribed before me this 12th day of August, 2007. Affiant is personally known to me or has produced as identification.

[Signature]
(Notary Public)

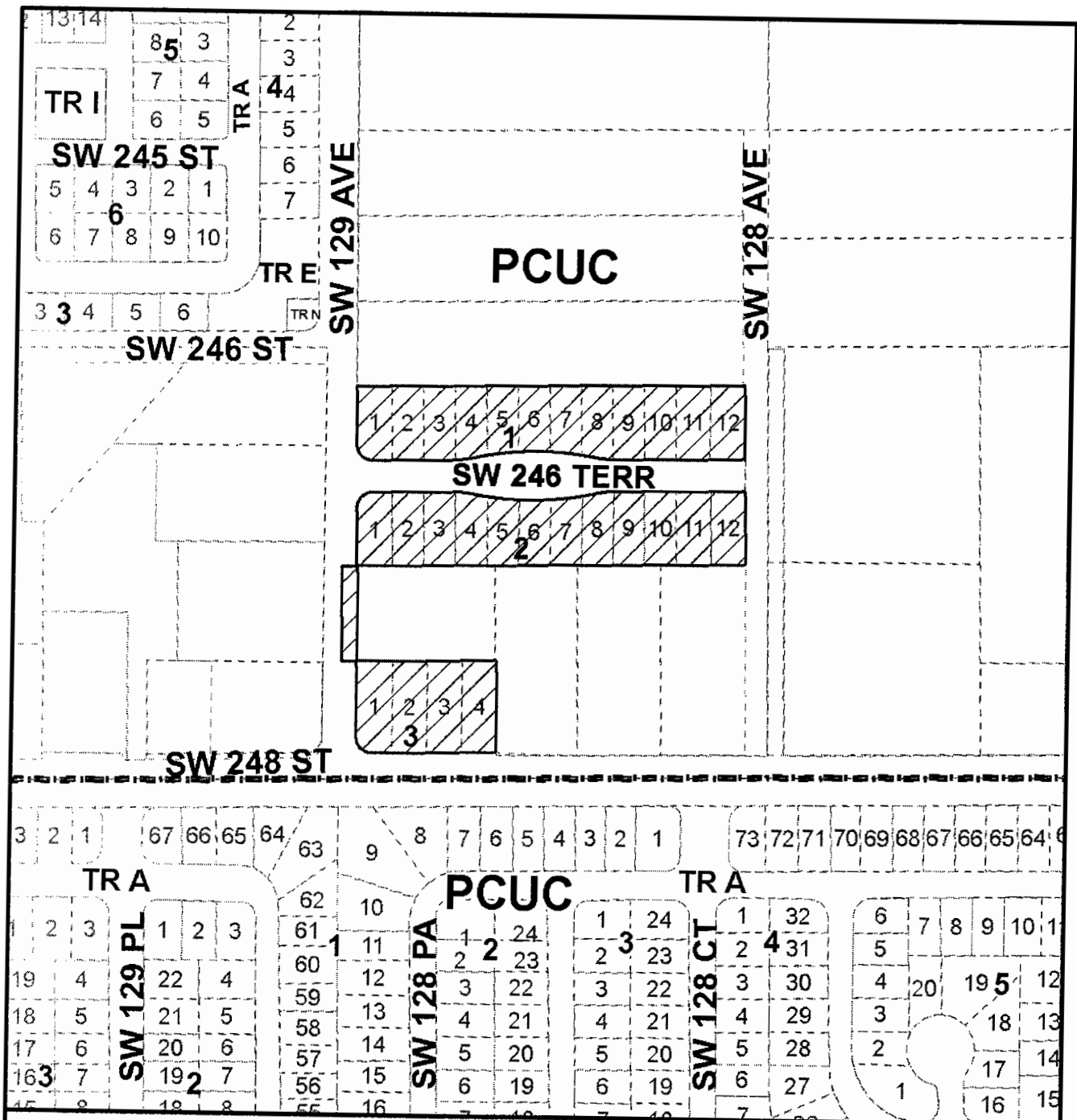
My commission expires: 11-8-08



*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

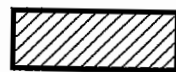
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207263
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MADE
[Signature]



MIAMI-DADE COUNTY
HEARING MAP

Process Number
07-263



SUBJECT PROPERTY

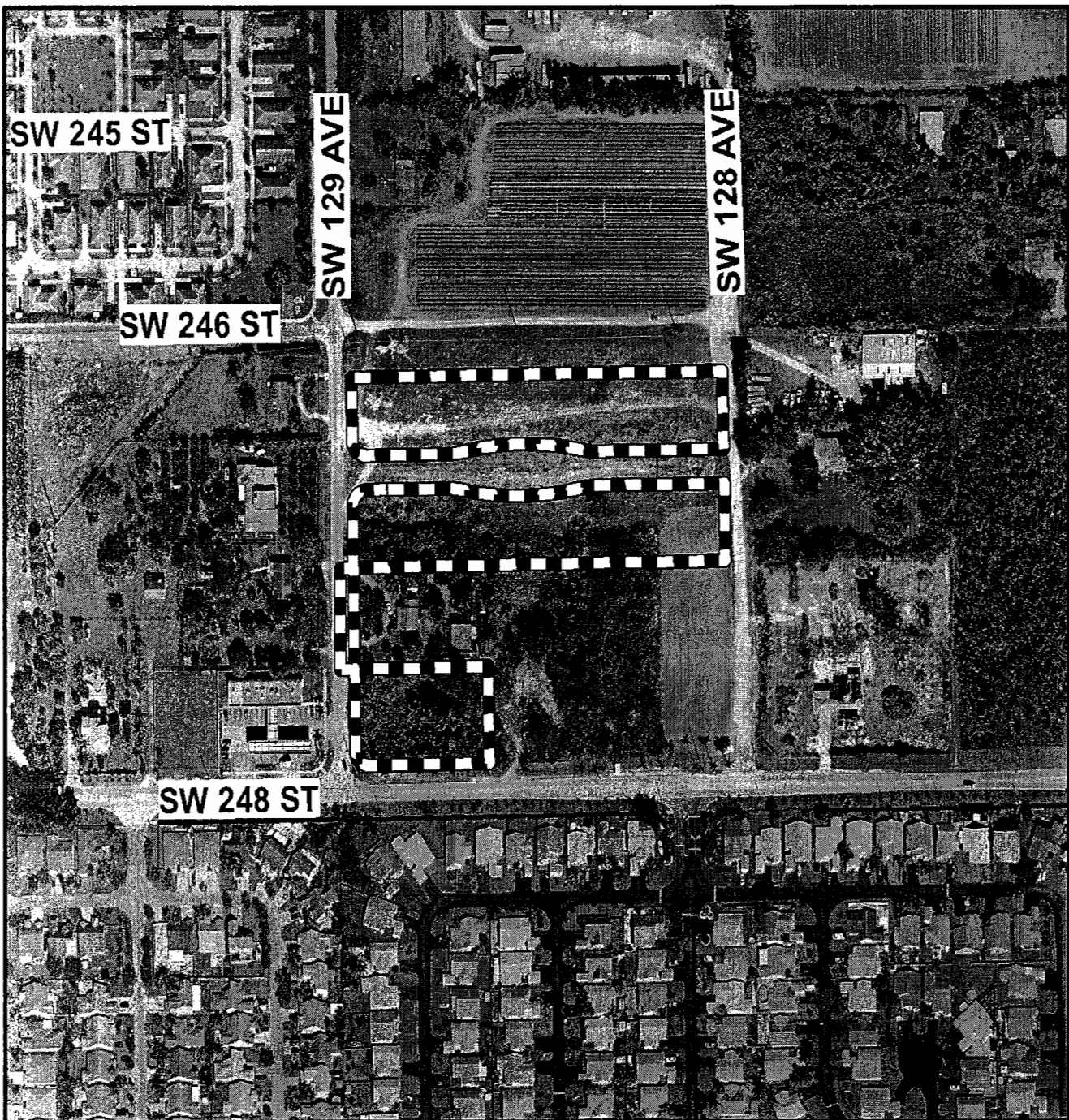
Section: 23 Township: 56 Range: 39
Applicant: R & E AT PALM VISTA II, INC.
Zoning Board: C15
District Number: 8
Drafter ID: N'NAGBE
Scale: NTS



CREATED ON: 08/17/07

REVISION	DATE	BY
Added Additional property	10/06/07	KAMAH

18



MIAMI-DADE COUNTY
AERIAL

Process Number
07-263



SUBJECT PROPERTY

Section: 23 Township: 56 Range: 39
Applicant: R & E AT PALM VISTA II, INC.
Zoning Board: C15
District Number: 8
Drafter ID: N'NAGBE
Scale: NTS



CREATED ON: 08/17/07

REVISION	DATE	BY
Added Additional property	10/06/07	KABAH